UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
PROGRAM PLANNING AND INTEGRATION
Silver Spring, Maryland 20910

JUN 0 4 2007

To All Interested Government Agencies and Public Groups:

Under the National Environmental Policy Act, an environmental review has been performed on the following action.

TITLE: Environmental Assessment for Final Atlantic Bluefin Tuna (BFT) Quota Specifications and Effort Controls for the 2007 Fishing Year

LOCATION: Atlantic Ocean, Gulf of Mexico, and Caribbean Sea

SUMMARY: NMFS announces the final rule to set 2007 fishing year specifications for the BFT fishery, including quotas for each of the established domestic fishing categories and effort controls for the General category and Angling category. This action is necessary to implement recommendations of the International Commission for the Conservation of Atlantic Tunas, as required by the Atlantic Tunas Convention Act, and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act. This action also makes a minor administrative change to the permit regulations.

RESPONSIBLE OFFICIAL: Margo Schulze-Haugen
Division Chief, Highly Migratory Species Management Division
National Marine Fisheries Service, National Oceanic and Atmospheric Administration
1315 East-West Highway
Silver Spring, MD 20910
(301) 713-2347

The environmental review process led us to conclude that this action will not have a significant impact on the human environment. Therefore, an environmental impact statement was not prepared. A copy of the finding of no significant impact, including the environmental assessment, is enclosed for your information.

Although NOAA is not soliciting comments on this completed EA/FONSI we will consider any comments submitted that would assist us in preparing future NEPA documents. Please submit any written comments to the Responsible Official named above.

Sincerely,

Rodney F. Weiher, Ph. D.
NEPA Coordinator

Enclosure

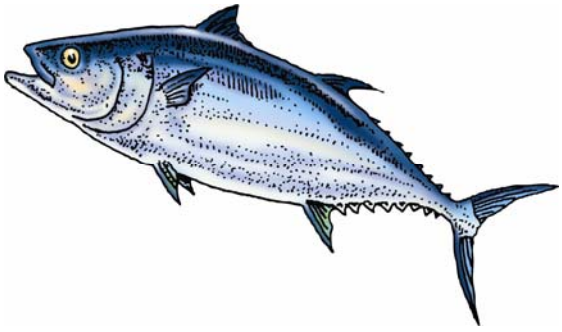
Environmental Assessment,
Regulatory Impact Review,

and

Final Regulatory Flexibility Analysis

for a Final Rule to Set

Atlantic Bluefin Tuna Quota Specifications and Effort Controls for the 2007 Fishing Year



United States Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Office of Sustainable Fisheries
Highly Migratory Species Management Division
May 2007

ABSTRACT

Final Action: Set 2007 fishing year Atlantic bluefin tuna (BFT) quotas for all domestic fishing categories and set General and Angling category effort controls.

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

For further information: Highly Migratory Species Management Division (F/SF1)
NMFS -Northeast Regional Office
One Blackburn Drive
Gloucester, MA 01930
Phone: (978) 281-9260; Fax: (978) 281-9340

Abstract: In April 1999, NMFS adopted the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (1999 FMP), that was developed to meet the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). In October 2006, NMFS finalized the Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP) and issued implementing regulations, including regulations for the Atlantic bluefin tuna fishery. This final action is necessary to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT) pursuant to the Atlantic Tunas Convention Act (ATCA) and to achieve domestic management objectives under the Magnuson-Stevens Act. This action would be effective from date of publication through December 31, 2007, pursuant to the change in fishing year to a calendar year as of January 2008. This action would allocate the total ICCAT-recommended quota, adjust the 2007 quotas based on landing underharvests from 2006 (consistent with the ICCAT recommendation to cap carryover of underharvest at 50 percent of the overall quota), address an ICCAT 10-percent tolerance recommendation regarding school BFT, establish General category effort controls, including time-period subquotas and restricted fishing days (RFDs), and establish retention limits for the General and Angling categories. These measures would be consistent with the Consolidated HMS FMP, including the BFT rebuilding program.

FINDING OF NO SIGNIFICANT ENVIRONMENTAL IMPACT

Finding of No Significant Impact for the 2007 fishing year
Atlantic bluefin tuna (BFT) quota specifications and effort controls.

National Marine Fisheries Service

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 a proposed 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 in 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 CEQ's 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?

The action is not expected to jeopardize the sustainability of BFT, which are the primary target species of operations affected by this action. Fishing patterns and behavior are not expected to change as a result of this action. NMFS would implement the annual BFT Total Allowable Catch (TAC) for the United States in the western Atlantic management area of 1,190.12 mt, (a decrease of 299.5 mt from the previous quota of 1,489.6 mt), which includes an annual 25 mt set aside of BFT to account for incidental catch of BFT by pelagic longline vessels in the vicinity of the management area boundary (i.e., the Northeast Distant Area, or NED), the 10-percent tolerance on harvest of school BFT, and carryover of quota underharvest consistent with the 2006 recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

Because this action implements a TAC that is consistent with the western BFT rebuilding plan, the action is not expected to jeopardize the sustainability of BFT. Relative to the 2002 ICCAT recommendation, the 2006 ICCAT recommendation decreased the U.S. BFT quota by 299.5 mt; therefore, a reduction in overall effort relative to the 2003-2006 level could be expected. Thus, this action is not expected to alter fishing patterns and/or behavior.

While preparing this EA, NMFS considered information contained in the Environmental Impact Statement (EIS) associated with the Consolidated HMS FMP and in the EA prepared for the May 30, 2006, final rule (71 FR 30619) implementing BFT 2006 final specifications and General and Angling category effort controls. This EA is consistent with the analyses and conclusions contained in the Consolidated HMS FMP EIS.

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

The action, which includes a reduced U.S. BFT quota relative to the last several years, is not expected to jeopardize the sustainability of any non-target finfish species. The primary fishing gears used to target BFT (i.e., rod and reel and purse seine) allow for the live release of non-target species to a great degree. The quotas for these sectors of the BFT fishery, (i.e., the Angling, General, and Purse Seine category quotas) total more than 85 percent of the total U.S. annual quota. Primary non-target fish species caught by vessels targeting BFT include yellowfin tuna, bigeye tuna, and other large pelagic species. NMFS does not anticipate effort changes, as a result of this action, that would adversely affect nontarget species.

In a June 2001 Biological Opinion (BiOp), the NMFS Office of Protected Resources (NMFS PR) determined that handgear and purse seine gear, used to fish or HMS fisheries, including BFT, were not likely to jeopardize the continued existence of endangered or threatened species, including sea turtles. In a June 2004 BiOp, NMFS PR determined that the continued operation of the pelagic longline fishery (for which direct BFT fishing is not permitted but for which incidental BFT retention is permitted) is not likely to jeopardize the continued existence of loggerhead, green, hawksbill, Kemp's ridley, or olive ridley seas turtles, but is likely to jeopardize the continued existence of leatherback sea turtles. Because of the fishery's impact on leatherback sea turtles, the NMFS recommended Reasonable and Prudent Alterntives (RPAs) to keep the fishery operating without further endangering leatherback sea turtles. NMFS has implemented those RPAs.

Rebuilding plans, as appropriate, and fishing controls are already in place 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 the 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 3.9.9.1 of the Consolidated HMS FMP lists the 22 marine mammal species that are or could be of concern with respect to potential interactions with HMS fisheries. Section 3.9.9.2 discusses interactions and the Endangered Species Act, including six endangered whale species.

3) Can the proposed action reasonably be 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?

This action is not expected to change BFT fishing patterns or impacts on EFH, or to allow substantial damage to ocean and coastal habitats and/or EFH. The Consolidated HMS FMP states that Atlantic HMS occupy pelagic oceanic environments, which is the general operational range of the commercial and recreational HMS fisheries. The HMS FMP describes habitat damage by HMS gear, other than bottom longlines (which are not used in the BFT fishery), as negligible to the pelagic environment. Regulatory actions involving pelagic fishing gear are not anticipated to affect EFH for Atlantic HMS.

4) Can the proposed action be reasonably expected to have a substantial adverse impact on

public health or safety?

Because this action sets fishing quotas and daily fish retention limits for vessels using handgear, it is not expected to have substantial adverse impacts on public health and safety (such as seafood safety). Fishing activity or behavior would not change, although fishing effort may decrease slightly as a result of this action in combination with recent evidence of an overall decrease in BFT availability on the historical fishing grounds. Less crowded fishing grounds may reduce the potential for vessel accidents and potential interpersonal conflicts at sea. Although fishing can be a dangerous profession, NMFS encourages fishermen to be responsible in safety matters while at sea. Nothing in this action would increase the risks already inherent in the fishing profession.

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

See response to Question 2 regarding findings of the 2001 and 2004 BiOps. Relative to the 2002 ICCAT recommendation, the 2006 ICCAT recommendation decreased the U.S. BFT quota by 299.5 mt; therefore, a reduction in overall effort relative to the level at the most recent consultation could be expected. There are restrictions on the BFT fishery, which include a closure on directed fishing in the Gulf of Mexico and daily retention limits for open access fisheries, and more specifically on the pelagic longline fishery, which is limited access and only allowed incidental retention of BFT. The measures in these final 2007 quota specifications and effort controls are not expected to alter current fishing practice or bycatch mortality rates, e.g., through increased fishing activity, 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 and 2004 BiOps.

6) Can the proposed 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.)?

The action is not expected to have a substantial 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, i.e., through increased fishing activity, or sanction the use of gears that have not already been authorized.

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

No. Thus, there are no significant social or economic impacts interrelated with natural or physical environmental effects. The preferred alternative is expected to have slightly positive social and economic impacts to fishermen. Further, the preferred alternative is necessary to implement the ICCAT-recommended adjusted BFT TAC for the United States in the western Atlantic management area of 1,190.12 mt and is consistent with the ICCAT recommendation

regarding the 10-percent tolerance of school BFT harvest. See Section 6 for an analysis of the predicted economic impacts to the BFT fishery and small business entities.

8) Are the effects on the quality of the human environment likely to be highly controversial?

The effects of this action on the human environment are not expected to be highly controversial because all current management measures and controls have been in place for several years. The action reflects a change in the accounting of dead discards in calculating the quotas, consistent with new provisions under the 2006 ICCAT BFT recommendation. It is consistent with methodology used for stock assessment purposes and is not expected to be controversial.

9) Can the proposed action reasonably 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. The management measures in this action apply to fisheries conducted in open ocean environments and therefore will not result in substantial impacts to park land, prime farmlands, wetlands, and wild and scenic rivers. The gears used in the BFT fishery are not expected to interact with any ecologically critical areas or historic or cultural resources within the action area.

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

No. Effects on the human environment would be similar to those in similar annual actions since 1999, and have been considered in the Consolidated HMS FMP. The BFT quota specifications allocate the ICCAT-recommended BFT quota consistent with the FMP and other ICCAT recommendations. The General and Angling category effort controls considered here fall within the ranges established in the FMP (e.g., a daily limit of one to three BFT in the General category) and/or implemented in recent years (as for the Angling category retention limit and General category restricted fishing days).

11) Is the proposed 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 recent actions or foreseeable future actions. The final rule implements the 2006 ICCAT recommendation for BFT, which complements and adjusts the 1998 ICCAT bluefin tuna rebuilding plan originally implemented by NMFS in the 1999 FMP. Other recent actions have been consistent with this rebuilding plan. Any future domestic actions taken in regard to the BFT fishery would remain within the scope of ICCAT recommendations. Likewise, all actions in this final rule are consistent with previous Biological Opinions issued under the Endangered Species Act.

12) Is the proposed 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 in this action will occur in the coastal and open ocean environments and therefore do not occur in areas such as districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places. This action, which allocates an overall quota to category subquotas and which establishes BFT fishing quotas and effort controls (e.g., fish retention limits), is not expected to cause loss or destruction of significant scientific, cultural or historical resources.

13) Can the proposed action reasonably be expected to result in the introduction or spread of a nonindigenous species?

No. This action would specify fishing category BFT subquotas, set management measures (e.g., daily BFT retention limits per vessel), and make a minor administrative change to the permit regulations. As the action does not involve ballast water exchange or movement of vessels between water bodies, it is not expected to result in the introduction or spread of any non-indigenous species.

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

No, the action is not likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration. The issuance of BFT fishing specifications is a fairly routine procedure which occurs on an annual basis, without regulatory changes or significant effects. The HMS regulations at 50 CFR 635 lay out the approach and boundaries for the action, thus the decisions involved are fairly limited and unlikely to involve principles that would affect future actions.

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

No, NMFS has preliminarily determined that the action would be implemented in a manner consistent to the maximum extent practicable with the enforceable policies of those coastal states on the Atlantic including the Gulf of Mexico and Caribbean that have approved coastal zone management programs. Letters were sent to the relevant states asking for their concurrence when the proposed rule was filed with the Office of the Federal Register. This action would not result in any new impacts on State regulations, regulations outside the Exclusive Economic Zone (EEZ), or laws applicable to the EEZ. This action is necessary for conservation and management and is consistent with the Magnuson-Stevens Act, the Endangered Species Act, and the Marine Mammal Protection Act. Therefore, this action is not expected to

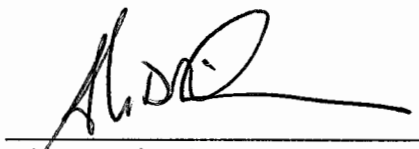
Exclusive Economic Zone (EEZ), or laws applicable to the EEZ. This action is necessary for conservation and management and is consistent with the Magnuson-Stevens Act, the Endangered Species Act, and the Marine Mammal Protection Act. Therefore, this action is not expected to threaten a violation of Federal, State, or local law or requirement imposed for the protection of the environment.

16) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a 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 cumulative long-term ecological impacts of the preferred BFT quota alternative are anticipated to be positive. The decrease in BFT quota available under this alternative is expected to result in decreased impacts to target and nontarget species as a result of the potential decrease in fishing effort. The cumulative long-term ecological impacts of the preferred alternatives for General category and Angling category effort controls are anticipated to be neutral since they impact only the temporal and geographic distribution of landings, and not the magnitude. This action is consistent with the 2006 ICCAT recommendation and would be consistent with ongoing implementation of a rebuilding plan for western Atlantic BFT and the objectives of the Consolidated HMS FMP.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for 2007 BFT Quota Specifications and Effort Controls (and in the EIS for the Consolidated HMS FMP) it is hereby determined that the 2007 BFT Quota Specifications and Effort Controls will not significantly impact the quality of the human environment as described above and in the supporting Environmental Assessment. In addition, all beneficial and adverse impacts of the action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.



MAY 3 1 2007

Alan D. Risenhoover
Director, Office of Sustainable Fisheries

Date

TABLE OF CONTENTS

1.0 PURPOSE AND NEED FOR ACTION

1.1 Management History

Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Act and of ATCA, which authorizes the Secretary of Commerce (Secretary) to promulgate regulations as may be necessary and appropriate to implement recommendations of ICCAT. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA). 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 includes framework provisions for the promulgation of 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 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (Consolidated HMS FMP), which includes slightly modified framework provisions. As described in Section 1.2, pursuant to the Consolidated HMS FMP regulations, beginning January 1, 2008, the fishing year will revert to a calendar year, i.e., January 1 through December 31, necessitating abbreviated specifications for the 2007 fishing year.

At its 2006 annual meeting, ICCAT recommended a western Atlantic BFT TAC of 2,100 mt, to allow for continued rebuilding of BFT in the western Atlantic through 2018. The TAC is inclusive of dead discards and will be effective annually beginning with the 2007 fishing season and thereafter until changed. The following are deducted from the TAC prior to applying the U.S. share percentage: 4 mt for the United Kingdom (in respect of Bermuda), 4 mt for France (in respect of St. Pierre and Miquelon), 25 mt for Mexico (to allow incidental catch in the longline fishery in the Gulf of Mexico), and 15 mt for Canada and 25 mt for the United States (for bycatch related to directed longline fisheries in the "in the vicinity of the management boundary area," i.e., the Northeast Distant gear restricted area (NED). This area was defined in the 2003 BFT annual specifications (68 FR 56783, October 2, 2003) as the NMFS Northeast Distant statistical reporting area. The U.S. share of the adjusted TAC is 57.48 percent, or 1,165.12 mt. Accounting for the 25 mt pelagic longline BFT set-aside, the total U.S. allocation is 1,190.12 mt. The previous (2002) ICCAT recommendation for a western Atlantic BFT TAC of 2,700 mt included a U.S. quota of 1,464.6 mt, which was effective from 2003 through the end of the 2006 fishing year, i.e., May 31, 2007, and also included a 25-mt NED set-aside, for a total of 1,489.6 mt. In addition, the previous ICCAT recommendation provided an additional dead discard allowance of 68 mt, which has now been eliminated. The current ICCAT recommendation also contains a new provision to allow a contracting party with a TAC allocation to make a one-time transfer within a fishing year of up to 15 percent of its TAC allocation to other contracting parties with TAC allocations, consistent with domestic obligations and conservation considerations.

As a method for limiting fishing mortality on juvenile BFT, in 1991 ICCAT adopted a tolerance limit which allows the annual harvest of no more than eight percent of the quota as school size (27 inches to less than 47 inches) fish. The 1998 rebuilding plan modified the tolerance to be

calculated as an average over a four-consecutive-year balance period, and the 2006 ICCAT recommendation increased the tolerance limit to no more than 10 percent of the total bluefin quota per contracting party over each four-year quota balancing period. During the 2006 fishing year, NMFS actively managed the BFT Angling category to stay within the eight- percent tolerance limit.

As a bookkeeping measure, prior to calculation of the 2007 quota specifications, NMFS has adjusted the 2006 fishing year quota, based on information received after preparation of the final 2006 fishing year specifications (Table 1). The preliminary estimates of landings by category and under and overharvest for the 2006 fishing season are illustrated in Table 2.

1.2 Purpose and Need for Action

The purpose of this action is to domestically implement the 2006 ICCAT recommendation, including the BFT TAC and 10-percent tolerance limit on harvest of school size BFT by setting 2007 fishing year specifications for the BFT fishery that allocate the TAC among domestic fishing categories, and implement General and Angling category effort controls. This action is needed to implement ICCAT recommendations pursuant to ATCA and to achieve domestic management objectives under the Magnuson-Stevens Act. Alternatives regarding allocation of this BFT quota among domestic fishing categories and General and Angling category effort controls are analyzed in order to ensure consistency with the objectives of the Consolidated HMS FMP and its implementing regulations, applicable law, the 1998 ICCAT BFT Rebuilding Plan, as modified in 2006, and other ICCAT recommendations.

Because BFT quotas and allocations are now codified in the HMS regulations, a regulatory amendment is necessary to modify the baseline landings quota from 1,464.6 mt to 1,165.12 mt (not including the NED 25 mt set-aside) and the allocations (in mt) to the General, Angling, Harpoon, Purse Seine, Longline, Trap, and Reserve categories, per the percentage allocation shares set forth in the Consolidated HMS FMP. In addition, current regulations at § 635.27 are modified to be consistent with the latest ICCAT recommendation, including references to BFT dead discard accounting, and annual quota adjustments based on the amount of underharvest or overharvest from one fishing year to the next.

These BFT quota allocations and General category effort controls, including time-period subquotas and restricted fishing days (RFDs), as well as retention limits for the General and Angling category, would be effective June 1, 2007, through December 31, 2007. This compressed timeframe is due to the shift from a fishing year (June through May) to a calendar year as required by the final rule implementing the Consolidated HMS FMP and effective January 1, 2008. In this action, due to the change to a calendar year fishery, NMFS also implements a minor change to the permit regulations to allow permit holders the flexibility to change categories during the first half of 2008.

2.0 SUMMARY OF THE ALTERNATIVES

This section describes the alternatives considered in this EA/RIR/FRFA for achieving the purpose and need identified in Section 1.2. Section 2.1 describes the alternatives considered regarding allocation of BFT quota among domestic fishing categories, and Section 2.2 presents alternatives regarding General category (commercial) and Angling category (recreational) effort controls.

2.1 Issue 1: Allocation of BFT quota among domestic fishing categories

This section describes the alternatives considered by NMFS regarding allocation of BFT quota among the commercial and recreational domestic fishing categories. The amount of annual quota available is determined by the ICCAT TAC recommendation after consideration of overharvest/ underharvest from the previous fishing year and accounting for estimated dead discards of BFT. Three alternatives are considered.

Beginning with its 1998 recommendation, ICCAT has historically recommended a deduction of 79 mt from the TAC as an allowance for dead discards, and the U.S. portion of this allowance has been 68 mt. The 2006 ICCAT recommendation neither included a recommended dead discard allowance, nor specified dead discard reporting methodology for compliance purposes. Nevertheless, the United States must report and account for dead discard estimates annually. To be consistent with reports from the United States to the ICCAT Standing Committee on Research and Statistics for stock assessment purposes, NMFS will report dead discards as the estimate generated via extrapolation of pelagic longline vessel logbook tallies by pooled observer data, as warranted. Since dead discard estimates for 2006 are not available, the 2005 estimate of 131 mt is used as a proxy. Estimates of dead discards from other gear types and fishing sectors that do not use the pelagic longline vessel logbook are unavailable at this time and thus are not included in this calculation. In accordance with ICCAT recommendations, the United States must subtract 131 mt from its allocation of catch that can be retained. Per the ICCAT recommendation, which specifies a U.S. quota that is inclusive of dead discards, NMFS would subtract the 131 mt of estimated dead discards from the amount of quota available for the Longline category for the 2007 fishing year, regardless of the overall quota amount and the distribution of quota among categories. Table 2 presents the calculations to determine the final 2007 fishing year quotas. In addition, NMFS modifies the BFT quota and annual adjustment regulations at § 635.27(a) to indicate that NMFS will account for dead discards annually as part of the specifications process, and indicate its intent to subtract that amount from the quota of the category accounting for the dead discards.

Alternative A1: No action – Allocation of ICCAT quota to domestic categories in accordance with the 2006 ICCAT Recommendation and Consolidated HMS FMP

Under this alternative, NMFS would not allocate the 2006 ICCAT quota recommendation among domestic fishing categories, defaulting to the quota allocated by the 2002 ICCAT recommendation, previously in effect. The quota allocation scheme established in the Consolidated HMS FMP would be applied to the U.S. TAC that has been in effect since 2003. The 2002 ICCAT

BFT quota recommendation allowed, and U.S. regulations require, the addition or subtraction, as appropriate, of any underharvest or overharvest in a fishing year to the following fishing year, provided that such carryover does not result in overharvest of the total annual quota and is consistent with all applicable ICCAT recommendations, including restrictions on landings of school BFT. Under the Consolidated HMS FMP, individual quota category carryovers may not exceed 100 percent of their baseline allocations.

Quota and fishing levels prior to the 2006 ICCAT recommendation serve as baseline conditions for comparison and analytical purposes with the remaining alternatives and other issues. This alternative would set the quota for the 2007 fishing year at the pre-2006 U.S. allocation of 1,489.6 mt, plus the full amount of underharvest from 2006, and would take into account the dead discard allocation. This alternative would be inconsistent with ATCA, the Consolidated HMS FMP, and implementing regulations.

Alternative A2: Allocation of ICCAT quota to domestic categories in accordance with the 2006 ICCAT Recommendation and Consolidated HMS FMP (Preferred Action)

Under this alternative, the percentage allocations determined in the Consolidated HMS FMP would be applied to the 2006 ICCAT recommended BFT TAC. The 2006 ICCAT recommendation concerning conservation of western Atlantic BFT set the TAC, inclusive of dead discards, for the western Atlantic management area to 2,100 mt. The TAC will be effective annually for 2007 through 2008, and thereafter until changed. From this TAC, the following are deducted: 4 mt for the United Kingdom (in respect of Bermuda), 4 mt for France (in respect of St. Pierre and Miquelon), 25 mt for Mexico (to allow incidental catch in the longline fishery in the Gulf of Mexico), and 15 mt for Canada and 25 mt for the United States (for bycatch related to directed longline fisheries in the "in the vicinity of the management boundary area," i.e., the NED. The U.S. share of the adjusted TAC is 57.48 percent, or 1,165.12 mt. Accounting for the 25 mt pelagic longline BFT set-aside, the total U.S. allocation is 1,190.12 mt.

The current ICCAT recommendation also allows a contracting party with a TAC allocation to make a one-time transfer within a fishing year of up to 15 percent of its TAC allocation to other contracting parties with TAC allocations, consistent with all applicable U.S. domestic obligations and conservation considerations. The ICCAT recommendation stipulates that the quota transfer may not be used to cover overharvests, and that a contracting party that receives a one-time quota transfer may not retransfer that quota. For the United States, the 15-percent limit on quota transfer equates to 178.5 mt. In considering whether or not the United States could enter into an arrangement with another ICCAT contracting party, several factors would need to be taken into account, including, but not limited to, the amount of quota to be transferred, the projected ability of U.S. vessels to harvest the U.S. TAC before the end of the fishing year, the potential benefits of the transfer to U.S. fishing participants (such as access to the EEZ of the receiving contracting party for the harvest of a designated amount of BFT), potential ecological impacts, and the contracting party's ICCAT compliance status. Analysis of a transfer of U.S. BFT quota is not provided in this document. NMFS intends to undertake any transfer of U.S. quota to another ICCAT contracting party via a separate action (published in the Federal Register), which would provide detail of the transaction considered,

including information regarding the factors described above.

Landings estimates (as of April 30, 2007) indicate 2006 underharvests, in all categories, totaling 2,400.4 mt (see Table 2, Column C). In anticipation of a cap on carryover for the 2007 fishing year, i.e., 595.1 mt, or one half of the initial U.S. TAC of 1,190.12 mt, and in anticipation of a substantial underharvest of the 2006 fishing year domestic quota, the United States agreed at the 2006 ICCAT meeting to transfer a total of 275 mt of current U.S. underharvest (i.e., underharvest of the 2006 fishing year quota) as follows: 75 mt and 100 mt for 2007 and 2008, respectively, to Mexico, and 50 mt for each of the years 2007 and 2008 to Canada. Based on these transfers, which were effected via the 2006 ICCAT recommendation and are unrelated to the potential transfer discussed in the previous paragraph, the remaining amount of underharvest (as of January 15, 2007) is 2,125.4 mt. However, the ICCAT-recommended cap limits the amount the United States may carry over for 2007 to 595.1 mt.

Calculations to determine the final BFT specifications for the 2007 fishing year are presented in Tables 1 and 2. Under this alternative, and consistent with the ICCAT-recommended 50-percent cap on quota carryover, NMFS would add the recommended amount of quota carryover from the 2006 fishing year to the 2007 fishing year, and distribute that underharvest to: 1) Allow for potential transfer of a portion (up to 15 percent) of the 2007 U.S. quota to other ICCAT Contracting Parties, if warranted; 2) ensure that the Longline category has sufficient quota to operate during the 2007 fishing year while also considering accounting for BFT discards; and 3) provide the non-Longline quota categories a share of the remainder of the underharvest consistent with the allocation scheme established in the Consolidated HMS FMP.

Specifically, NMFS would divide the 595.1 mt of quota carryover such that 178.5 mt (i.e., 15 percent of 1,190.12 mt) is placed in the Reserve for ICCAT transfer purposes. NMFS also would assign a sufficient amount of the quota carryover (236.6 mt) to the Longline category, due to the revised dead discard accounting methodology, so that after accounting for the 131 mt of dead discards, sufficient quota is available to cover the anticipated landings and dead discards of the pelagic longline fishery during the 2007 fishing year, i.e., potentially 200 mt. Distribution of the carryover amount by the FMP percentages would result in 48.2 mt added to the baseline amount (94.4 mt), for a total of 142.6 mt for the Longline category for the 2007 fishing year. After accounting for an estimated amount of dead discards of the same order as the best available estimate (i.e., approximately 131 mt for 2005), the quota for the Longline category would be 11.6 mt. This quota would not provide a sufficient amount of quota to allow for the legal landing of BFT taken incidental to catches of swordfish and other tunas, and would likely result in increased BFT discards. Finally, NMFS would distribute the remainder of the quota carryover (180 mt) to the Angling, General, Harpoon, Purse Seine, and Trap categories consistent with their FMP allocations. The Longline category baseline quota allocation (currently 8.1 percent of the TAC) may need to be revisited in the near future. Any change to the baseline allocation would require an amendment to the Consolidated HMS FMP.

As indicated above, the percentage allocations determined in the Consolidated HMS FMP would be applied to the 2006 ICCAT recommended ("baseline") BFT TAC. There would be no

adjustment to the set-aside for the NED, i.e., the set-aside for the 2007 fishing year would be 25 mt. Under this alternative, NMFS would set the harvestable school BFT Angling category subquota to 10 percent of the U.S. TAC, i.e., 119 mt, consistent with ICCAT's recommended 4-year average 10-percent tolerance on harvest of school BFT. Because of the change in fishing year back to a calendar year effective January 1, 2008, NMFS would, for the 2007 fishing year only, distribute the 5.3 percent of the General category quota that would be assigned to the January time period to the four time periods that will occur during the 2007 fishing year. An example calculation is provided in footnote 5 of Table 2. The January 2007 BFT fishery was prosecuted using 2006 fishing year quota. The January 2008 subquota will be included in the 2008 specifications. As discussed in the Consolidated HMS FMP, NMFS plans to work with the affected constituents through the 2008 specifications process to determine the most appropriate disposition of any under- or overharvest that has accrued in the General category by the end of December 2007.

Alternative A3: Allocation of ICCAT quota to domestic categories in accordance with the 2006 ICCAT recommendation but not the Consolidated HMS FMP

This alternative would be the same as for Alternative A2, except that an allocation scheme other than the one established in the Consolidated HMS FMP would be implemented for the purpose of specifying 2007 fishing year quotas. This alternative would implement the 2006 ICCAT recommendation and allocate the 1,190.12 mt BFT quota to the United States, in a manner other than what is stated in the Consolidated HMS FMP and implementing regulations.

This alternative could address issues relative to the changing nature of BFT fisheries and BFT distribution. These issues are in part characterized by the growth of a late season General category fishery and ongoing under-harvested quota for several commercial categories. The Consolidated HMS FMP addressed several aspects of the changing BFT fishery and included modification to time period subquotas and authorized gear for use in BFT fisheries, among other things. Further consideration of the information provided by the 2006 BFT stock assessment and international deliberations at and following the 2006 ICCAT meeting may provide further insight into the larger fishery issues raised by this alternative, and could result in future regulatory or FMP amendments. For the time being, modifications to domestic management of BFT outside the limitations of the Consolidated HMS FMP, current ICCAT recommendations, and ATCA are outside the scope of this action, and are not analyzed further in this action.

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

2.2 Issue 2: Effort controls

The following three sets of alternatives provide options for effort control in the General and Angling categories during the 2007 fishing year. Effort controls are meant to maximize the harvest of BFT and to minimize the negative biological, social, and economic impacts of such harvest. 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 by reducing retention limits at other times so that limited quota may be available to other areas at other times. Three sets of effort control alternatives are discussed below, including RFDs for the General category and retention limits for both the General and Angling categories.

2.2.1 General category restricted fishing days (RFDs)

NMFS considered two alternatives regarding the use of General category RFDs. RFDs and time-period subquotas have been used to slow down the rate of fishing in the General category for a variety of purposes including reduction of market gluts, greater temporal and spatial sampling for data collection purposes, and expansion of fishing opportunities to a broad range of participants. Subdivision of the General category into five time-period subquotas (50 percent for June through August, 26.5 percent for September, 13 percent for October through November, 5.2 percent for December, and 5.3 percent for January) was established in the Consolidated HMS FMP and codified in the implementing regulations, and is therefore not addressed in the following alternatives.

Alternative B1: No action: No designated RFDs and publish schedule during season

Under this alternative, NMFS would not publish RFDs with the final specifications. Instead, NMFS would use its inseason authority to implement RFDs should the need arise. This alternative anticipates a slow winter season, where low catch rates and a slow fishery do not warrant RFDs.

Alternative B2: Designate RFDs according to published schedule (Preferred Alternative)

Under this alternative, NMFS would announce the following schedule of RFDs for the 2007 season, on which persons aboard vessels permitted in the General category would be prohibited from fishing, including catch-and-release and tag-and-release, for BFT of all sizes, while the fishery is open: all Saturdays and Sundays from November 17, 2007, through December 31, 2007, plus November 22 and December 25, 2007. This alternative would improve distribution of fishing opportunities during the November through December time period without increasing BFT mortality. It also would provide participants prior notice of RFDs for planning purposes and slow the pace of the winter fishery in anticipation of high catch rates during the General category's third and fourth sub-periods. NMFS intends to propose RFDs for January 2008 (all Saturdays and Sundays during that month) as part of the 2008 quota specifications and effort controls rulemaking.

2.2.2 General category retention limits

NMFS considered the following three alternatives for General category retention limits for the start of the 2007 fishing season. Retention limits in the General category are designated as the number of large medium or giant BFT (73 inches curved fork length (CFL)) that may be retained on board a vessel with a General category Atlantic tunas permit. NMFS would implement this retention limit prior to the start of the fishery on June 1, 2007. The retention limit would remain in place until the end of the first General category subperiod on August 31, 2007, or until adjusted before that date with an inseason action, if necessary (depending on several factors, including but not limited to catch rates and availability of quota).

Alternative C1: No action: Initial General category retention limit of 1 fish per day/trip

Under Alternative C1, the default limit under current regulations (§ 635.23(a)(2)) of one large medium or giant BFT (i.e., one fish measuring 73 inches or greater) per General category vessel per day would go into effect.

Alternative C2: Establish a two fish initial General category retention limit per day/trip

Under Alternative C2, NMFS would establish a two large medium or giant BFT (i.e., two fish measuring 73 inches or greater) retention limit per day for General category vessels, starting with the effective date of these specifications until the end of the first quota subperiod on August 31, 2007, or unless adjusted with an inseason action, if warranted.

Alternative C3: Establish a three fish initial General category retention limit per day/trip (Preferred Alternative)

Under Alternative C3, NMFS would establish a three large medium or giant BFT (i.e., three fish measuring 73 inches or greater) retention limit per day for General category vessels, starting with the effective date of these specifications until the end of the first quota subperiod on August 31, 2007, or unless adjusted with an inseason action, if warranted. On September 1, 2007, the default retention limit of one large medium or giant BFT would go into effect, unless adjusted with an inseason action, if warranted. A three fish retention limit is the maximum General category retention limit allowed by Federal regulations (50 CFR 635.23).

2.2.3 Angling category retention limits

NMFS regulations at 50 CFR 635.23 allow the establishment and adjustment of Angling category retention limits via inseason actions. NMFS is providing alternatives for the Angling category retention limits in the 2007 fishing year specifications in order to provide more opportunity for public comment and to improve the ability of charter/headboat businesses and recreational anglers to plan for the fishing season. Each of these alternatives and subalternatives balance the following considerations: limited overall Angling category quota compared to fleet size; the ICCAT school

landings tolerance limit; the different needs of the private angler and charter/headboat sector of the Angling category; and the varying availability of different size classes during different seasons off various sections of the U.S. Atlantic seaboard. Under each of these alternatives, NMFS could adjust the retention limit with an inseason action during the fishing year, if warranted. However, NMFS intends to maintain the retention limits in each alternative for the duration of the 2007 fishing year. See Table 4 for graphic presentation of the retention limit subalternatives.

Alternative D1: Establish the same Angling category retention limit for private recreational and charter/headboat vessels

Under Alternative D1, NMFS would not differentiate between private recreational and charter/headboats. NMFS would allow each of these permitted vessel types to have the same retention limits in place during the fishing year. Several subalternative retention limits are considered below.

Subalternative D1a: No action: Maintain default Angling category retention limit of one fish measuring 27 inches to less than 73 inches per vessel per day/trip

Under Subalternative D1a, the default retention limit under current regulations of one school, large school, or small medium BFT (i.e., one fish measuring 27 inches to less than 73 inches) per vessel per day/trip would go into effect.

Subalternative D1b: Establish an Angling category retention limit of one fish measuring 27 inches to less than 47 inches and two fish measuring 47 inches to less than 73 inches per vessel per day/trip (Preferred Alternative)

Under Subalternative D1b, NMFS would establish a retention limit, for both the charter/headboat and private sectors of the fishery, of one school BFT (measuring 27 inches to less than 47 inches), plus two large school/small medium BFT (i.e., two fish measuring 47 inches to less than 73 inches) per vessel per day/trip.

Subalternative D1c: Establish an Angling category retention limit of two fish measuring 27 inches to less than 47 inches and two fish measuring 47 inches to less than 73 inches per vessel per day/trip

Under Subalternative D1b, NMFS would establish a retention limit, for both the charter/headboat and the private sectors of the fishery, of two school BFT, plus two large school/small medium BFT per vessel per day/trip.

Alternative D2: Establish Angling category retention limits that differentiate between private recreational vessels and charter/headboats

Under Alternative D2, NMFS would differentiate between private recreational and charter/headboats. NMFS would allow each of these vessel types to have different retention limits in

place at some point during the fishing year. Under this alternative, NMFS would allow provide charter/headboats with sufficient retention limits to attract clients and bookings while still providing access to a recreational fishery for private anglers with an HMS Angling permit. Three subalternative retention limits are considered below.

Subalternative D2a: Establish an Angling category private recreational vessel retention limit of one fish measuring 27 inches to less than 47 inches and two fish measuring 47 inches to less than 73 inches per vessel per day/trip, and establish a charter/headboat retention limit of two fish measuring 27 to less than 47 inches and three fish measuring 47 inches to less than 73 inches per vessel per day/trip

Under Subalternative D2a, NMFS would provide a private vessel retention limit of one school BFT per vessel per day/trip, plus two large school/small medium BFT, and a charter/headboat limit of two school BFT, plus three large school/small medium BFT, per vessel per day/trip.

Subalternative D2b: Establish Angling category retention limits for both private recreational and charter/headboat vessels of one fish measuring 27 inches to less than 47 inches and two fish measuring 47 inches to less than 73 inches per vessel per day/trip, with an increase for charter/headboats only to two fish measuring 27 to less than 47 inches and three fish measuring 47 inches to less than 73 inches per vessel per day/trip from June 15, 2007 through July 31, 2007, and from September 1, 2007 through September 30, 2007

Under Subalternative D2b, NMFS would provide a private recreational limit of one school BFT, plus two large school/small medium BFT, per vessel per day/trip for the entire season. NMFS would apply this same limit for charter/headboats except for June 15 through July 31, and from September 1 through September 30, when the vessel retention limit would increase to two school BFT, plus three large school/small medium BFT, per day/trip. This subalternative differentiates between private and charter/headboat vessels for certain periods of the season when fish are expected to be available in geographic locations with active charter/headboat fisheries.

Subalternative D2c: Establish Angling category retention limits for both private recreational and charter/headboat vessels of two fish measuring 27 inches to less than 73 inches per vessel per trip/day, with an increase for charter/headboats only to three fish measuring 27 inches to less than 73 inches per vessel per trip/day from June 15, 2007 through July 31, 2007, and from September 1, 2007 through September 30, 2007

Under Subalternative D2c, NMFS would provide a private recreational limit of two fish (school, large school, or small medium BFT) for the entire season. NMFS would apply this same limit for charter/headboats except for June 15 through July 31, and from September 1 through September 30, when NMFS would increase the vessel retention limit to three fish (school, large school, or small medium BFT) per day/trip. This subalternative differentiates

between private and charter/headboat vessels for certain periods of the season when fish are expected to be available in geographic locations with active charter/headboat fisheries. Like the other alternatives discussed for the Angling category, NMFS would make inseason adjustments to the retention limits if warranted.

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 fisheries, including the gears used, the communities involved, catches, and discards, please see the Consolidated HMS FMP (NMFS 2006b), which includes the 2006 HMS Stock Assessment and Fishery Evaluation (SAFE) Report, as well as the latest BFT Stock Assessment (SCRS 2006). Also, for information on interactions and concerns with protected species and the Atlantic tuna fisheries, please see the *2004 Final Supplemental Environmental Impact Statement (FSEIS) for a Final Rule to Implement Management Measures to Reduce Bycatch and Bycatch Mortality of Atlantic Sea Turtles in the Atlantic Pelagic Longline Fishery* (NMFS 2004). The action area includes coastal waters and the U.S. Exclusive Economic Zone of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea.

3.1 Status of the Stocks

Western Atlantic BFT are considered overfished and overfishing is occurring. At the 2006 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. The SCRS cautioned that conclusions of the 2006 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. The following information summarizes information and recommendations presented by SCRS to ICCAT for the consideration in setting the western Atlantic BFT TAC.

Given current recruitment levels, it is extremely unlikely that SSB can recover to levels exhibited in the 1970s in the next 15 years or so without reducing catch to near zero. Short-term (5-year) projections indicate that a constant catch of 2,700 mt (the previous ICCAT-recommended western Atlantic TAC) would result in small declines in the spawning stock biomass (SSB); a constant catch of 2,300 mt would maintain SSB at current levels; and a constant catch of 2,100 mt would produce small gains in SSB. The SCRS 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.

At the 2006 meeting, ICCAT adopted a recommendation to decrease the annual quota of BFT in the western Atlantic Ocean from 2,700 mt to 2,100 mt, consistent with the rebuilding program for western Atlantic BFT established in 1998. The share allocated to the United States was set at 1,190.12. ICCAT recommended that this TAC be effective beginning in 2007, through 2008, and thereafter until changed in a future recommendation.

3.2 Fishery Participants, Gear Types, and Affected Area

There are over 35,000 permitted vessels that may participate in the Atlantic tuna fisheries. Vessels permits are issued in five directed fishing categories and two incidental fishing categories (Tables 5a, 5b, and 5c). 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, and bandit gear. 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 one category per year and allow for only one permit category change to occur during the permit renewal period. For those applicants who selected 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. Because of the scheduled change to a calendar year fishery beginning January 1, 2008, and because NMFS plans to administer the permit program such that Atlantic Tunas, HMS Charter/Headboat, and HMS Angling category permits issued for the 2007 fishing year will be effective through December 31, 2008, NMFS is providing permit holders an extended window of opportunity to change their permit category for the 2008 fishing year, i.e., once during the period of January 1, 2008, through May 31, 2008.

U.S. landings of BFT for the 1996-2006 period are provided in Table 6. 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. Since the implementation of the 1999 FMP, the BFT fishery has been managed on a fishing year basis (e.g., June 2006-May 2007) versus a calendar year basis. Per implementation of the Consolidated HMS FMP, the fishing year will revert to a calendar year effective January 1, 2008. 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 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 7. General category fisheries are focused in New England during the summer and fall, and the South Atlantic during the winter.

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 recreationally targeted off Virginia, Delaware, and Maryland during the summer and off New Jersey and New York as the summer progresses. Fishery landings and school

BFT availability decline in the fall. Recreational fishing also takes place for large medium and giant BFT in the South 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 South 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 movements throughout the Atlantic are the subject of much research and affect the availability of harvest for regional fisheries. Over the last few years, the availability of large medium and giant BFT in the New England area has declined, causing large reductions in the ability of General category fishermen to harvest the first two time period subquotas and the ability of purse seine and harpoon fishermen to harvest their respective quotas (Table 6), which are traditionally taken in the New England region. Conversely, the ratio of landings to quota has been high for the Angling category, relative to that for other categories, although time lags in receipt and analyses of survey data, and uncertainty inherent in estimation procedures, mean delayed calculation of final landings estimates.

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. Because of the magnitude of water column structures and the processes that create them, there is little effect on habitat that can be detected from the HMS fishing activities.

3.4 Protected Species

The Endangered Species Act (ESA) requires Federal agencies to evaluate proposed actions in light of the impacts they could have on these ESA-listed threatened or endangered species. In the case of marine fisheries, the NMFS Office of Sustainable Fisheries consults with the Office of Protected Resources to determine what impacts major fishery management actions will have on endangered populations of marine species and what actions can be taken to reduce or eliminate negative impacts.

Under a 2001 Biological Opinion (BiOp), the NMFS Office of Protected Resources determined that the primary gear types used for directed BFT fisheries (handgear and purse seine gear) were not likely to jeopardize the continued existence of endangered or threatened species,

including sea turtles. Under a June 2004 BiOp, the NMFS Office of Protected Resources determined that the continued operation of the pelagic longline fishery (for which direct BFT fishing is not permitted but for which incidental BFT retention is permitted) is not likely to jeopardize the continued existence of loggerhead, green, hawksbill, Kemp's ridley, or olive ridley seas turtles, but is likely to jeopardize the continued existence of leatherback sea turtles. See Section 4.5 for further discussion of consultations and BiOps issued for HMS Fisheries.

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

- Category I fisheries are those with frequent serious injury or mortality to marine mammals (e.g., pelagic longline);

- Category II fisheries are those with occasional serious injury or mortality (e.g., shark gillnet); and

- Category III fisheries are those with remote likelihood of serious injury or mortality to marine mammals (e.g., rod and reel, purse seine, harpoon).

Fishermen participating in Category I or II fisheries are required to be registered under the MMPA and, if selected, to accommodate an observer aboard their vessels. Vessel owners or operators, or fishermen, in Category I, II, or III fisheries must report all incidental mortalities and injuries of marine mammals during the course of commercial fishing operations to NMFS. NMFS does not currently require recreational fishermen to report takes, nor does NMFS authorize recreational fishermen to incidentally take a marine mammal. NMFS does require reporting and authorizes takes by charter/headboat fishermen (considered "commercial" by the MMPA), and no takes have been reported to NMFS to date.

NMFS lists the purse seine fishery and handgear fisheries as Category III fisheries under the MMPA because the fishing gears used in these fisheries are not likely to result in mortality or serious injury of marine mammals or sea turtles. However, NMFS lists the pelagic longline fishery as a Category I fishery because longline gear is known to present potential dangers to listed sea turtles and marine mammals. Accordingly, NMFS regulates the activity of the fishery under the terms of the BiOp dated June 1, 2004.

Please refer to Sections 3.8 and 3.9.9 of the Consolidated HMS FMP for additional information on potential interactions of Atlantic HMS fisheries with protected species and marine mammals. Sections 3.9.9.1 and 3.9.9.2 specify the 22 cetacean species of concern that occur off the Atlantic and Gulf coasts, including six endangered whale 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). The process of setting annual BFT management measures, and the ecological social, and economic impacts thereof, was discussed in Sections 4.3.1.2 and 4.3.1.3 of the Consolidated HMS FMP.

4.1 Issue 1: Allocation of BFT quota among domestic fishing categories

Ecological Impacts

Under Alternative A1, the no action alternative, NMFS would not implement the 2006 ICCAT BFT quota recommendation, and would instead implement the baseline U.S. TAC that has been in effect since 2003, and apply the quota allocation scheme established in the Consolidated HMS FMP. Alternative 1 would be inconsistent with the Consolidated HMS FMP, ATCA, and the 2006 ICCAT recommendation. The 2007 fishery would be based on the level of quota allocated from ICCAT prior to 2006 (i.e., 1,489.6 mt, which is 300 mt higher than the level currently recommended to allow stock rebuilding), the dead discard allowance applied prior to 2006, and underharvest from the 2006 fishing year. Adding the net underharvest from the 2006 fishing year (preliminarily calculated to be 2,400.4 mt) to the 2007 fishing year would allow for a substantial increase in BFT harvest for the 2007 fishing year compared to 2006 (Table 2). Adjustment of the 2007 quota to incorporate such a large amount of underharvest could negatively affect the stock if BFT availability to the fishery, especially availability of spawning size BFT, were to improve during the 2007 fishing season. If a full year class is harvested prior to maximizing its contribution to spawning, stock recovery could be slowed. Fluctuations in year class strength are to be expected, and are considered as a part of ICCAT's Standing Committee on Research and Statistics (SCRS) advice and ICCAT recommendations for rebuilding. ICCAT has historically included in its recommendation a provision for contracting parties to apply the full amount of a TAC underharvest or overharvest to the next year's TAC. However, in 2006, ICCAT recommended that the amount carried forward not exceed 50 percent of a contracting party's current initial TAC. Because ICCAT must take underharvests and overharvests into account when setting the overall stock TAC, it is important that individual nations limit their carryover to the recommended amount to reduce the risk that overall TACs are exceeded.

If implemented, Alternative A1 could have more negative ecological impacts on BFT than Alternative A2 because the implemented quota would be more than 3,800 mt, i.e., more than triple the quota implemented under A2, due to the inclusion of the full amount of underharvest and a quota based on the 2002 ICCAT recommendation (300 mt higher than currently recommended). As a result of potential higher harvests under Alternative A1, it could delay rebuilding of the western Atlantic BFT stock.

NMFS expects Alternative A2, the preferred alternative, to result in long term positive impacts to BFT stocks because it is consistent with the ICCAT BFT rebuilding plan. The decreased quota contained in Alternative A2 would have lower ecological impacts on BFT than the quota implemented for 2006 (under Alternative A1), and would be consistent with the Consolidated HMS FMP, ATCA, and the 2006 ICCAT recommendation. The 2006 ICCAT recommendation and these quota specifications comprise a step in a longer-term stock rebuilding program designed to stabilize fishing pressure and allow the stock to rebuild to higher levels. The large degree of underharvest that occurred in 2005 and 2006 is unusual in the U.S. domestic fishery, and the implications of continued underharvests on stock recovery are important issues for NMFS and ICCAT to consider.

The decrease in quota available under Alternative A2 may result in a slight decrease in impacts to other nontarget species as a result of a potential slight decrease in fishing effort for handgear and purse seine fisheries; however, the amount of quota decrease is not expected to alter existing fishing patterns. NMFS does not expect a decrease in participation in open access BFT fisheries, or a decrease in effort for either open or limited access BFT fishermen that are already participants. Bycatch in HMS fisheries for both HMS and non-HMS species was addressed in Section 3.8.3 of Consolidated HMS FMP, and is not repeated here in detail. In summary, bycatch impacts are expected to be minimal from the harpoon fishery because the target is identified as a BFT with reasonable certainty before the harpoon is thrown. Investigations into bycatch in the purse seine fishery have found dead discards to be limited to tunas; however, ratios of discards to harvested tuna are not available. Some bycatch estimates for recreational HMS fisheries have been recorded by the Large Pelagic Survey (NMFS 1999); however, the sample size has not been large enough to expand data to annual estimates, and the data collected are from all HMS fisheries, not just BFT fisheries. The species that were discarded dead most frequently according to these data were BFT and skipjack tuna. Data for General category fisheries have not been collected, but discards are expected to be similar to recreational HMS fisheries since the same gear is employed in both fisheries. BFT are caught incidentally by the longline fishery, and are allowed to be retained if within the tolerance limits of set amounts of target catches. In addition, Alternative A2 is not expected to increase adverse impacts to protected species beyond those previously analyzed in the 2001 and 2004 BiOps (see Section 4.5). Bycatch of non-target species is expected to be lower for Alternative A2 than Alternative A1 because of the decrease in quota available under Alternative A2.

As discussed in Section 2.1, the ICCAT BFT TAC recommendations include dead discards, and as such, the United States must deduct its reported discards from the U.S 2007 fishing year TAC. Since the 1998 recommendation, ICCAT has recommended a deduction of 79 mt from the TAC as an allowance for dead discards, and the U.S. portion of this allowance has been 68 mt. The 2006 ICCAT recommendation included neither a recommended dead discard allowance, nor specified dead discard reporting methodology for compliance purposes. In the past, for compliance purposes, the United States has reported dead discards to ICCAT as an estimate based on pelagic longline vessel logbook tallies, adjusted as warranted by observer data. For 2005, the most recent year for which complete information is available, the estimate is approximately 46 mt. However, based on revised methodology, the United States now reports dead discard estimates generated via extrapolation of logbook tallies by pooled observer data; for 2005, the estimate is approximately 131 mt. These specifications also use this revised estimate. Estimates of dead discards from other gear types and

fishing sectors that do not use the pelagic longline vessel logbook are unavailable at this time and thus are not included in this calculation. Per the ICCAT recommendation, which specifies a U.S. quota that is inclusive of dead discards, and consistent with how NMFS has managed past incidents of dead discards exceeding the allowance, NMFS would deduct the 131 mt of estimated dead discards from the amount of quota available for the Longline category for the 2007 fishing year.

Table 2 presents the calculations to determine the final 2007 fishing year quotas. The carryover of 595.1 mt of unused BFT quota from 2006 is consistent with the ICCAT recommendation and would have less potential ecological impact than carryover of the full amount of underharvest as described at the beginning of this section. Given the anticipated quota needs of the Longline category for the 2007 fishing year, i.e., for both landings and discards, which must be accounted for, the final action is intended to provide sufficient quota (via allocation of some of the 2006 underharvest) to the Longline category to cover the anticipated landings and dead discards of the pelagic longline fishery during the 2007 fishing year, i.e., potentially 200 mt. Again, no additional effort or change in fishing pattern is expected. NMFS simply seeks to avoid a zero or negative quota for the Longline category, which could result in increased discards, given that NMFS must subtract the best available dead discard estimate from the TAC on an annual basis. Allocation issues may need to be raised to HMS AP for reconsideration under these new procedures.

Consistent with the 2006 ICCAT recommendation, Alternative A2 also would allocate a 25 mt set-aside of BFT to the Longline North subcategory "in the vicinity of the management area boundary" (i.e., the NED). As BFT caught and landed under this quota would be caught incidentally to directed pelagic longline fisheries on other species, there would not be any additional mortality or ecological impacts to the BFT stock from this alternative. There would be no additional impacts to other species as this alternative would not alter existing fishing patterns or effort of pelagic longline vessels. NMFS would monitor and manage the pelagic longline fishery in this area, and account for the 25 mt, in concert with the ongoing Atlantic tuna dealer reporting mechanisms that are already in place. Per the regulations implementing the Consolidated HMS FMP, regardless of the amount of the NED set-aside harvested or used in a given year, the balance returns to 25 mt at the start of each fishing year, i.e., underharvest of the 2006 set aside is not carried forward to the set-aside for the 2007 fishing year.

Neutral ecological impacts are predicted for BFT as a result of specifying the school BFT subquota in accordance with ICCAT's 4-year 10 percent tolerance limit. Ecological impacts of school BFT harvest is already accounted for in the ICCAT BFT rebuilding plan. Since harvest of the school quota is figured into the rebuilding plan, there is expected to be little ecological difference for BFT whether that harvest occurs in one year or four years. ICCAT's rebuilding plan was taken into account when quota adjustments in tonnage were provided for under the Consolidated HMS FMP.

Economic and Social Impacts

Alternative A1 would not alter current economic impacts to the United States and to local economies relative to the distribution and scale of those prior to the 2006 ICCAT recommendation, although the larger amount of quota available would provide greater fishing opportunities than Alternative A2, depending on the availability of BFT to the fishery.

Alternative A2 could have fewer economic impacts to the United States and local economies compared to alternative A1 because of the decrease in quota. However, negative economic impacts from alternative A2 would be distributed among the recreational and commercial sectors and are expected to mirror the distribution of the quota allocation in percentages set forth in the Consolidated HMS FMP. Potential impacts from this alternative will depend upon the ability of the fishery to harvest the quota. In 2006, less than 15 percent of the overall available quota was harvested, resulting in an underharvest of 2,400 mt. Per the 2006 ICCAT recommendation, only 50 percent of the initial TAC, or 595.1 mt, of that underharvest will be carried over to the 2007 fishing year.

In Alternative A2, the 25 mt set-aside for BFT incidentally caught pursuant to longline fishing operations in the NED offsets slightly the negative impacts on the pelagic longline sector of the fleet. The set-aside cannot be transferred to other quota categories. There could be negative social and economic impacts among other fishery sectors if they are closed upon achieving their quota and are unable to access available quota, via inseason transfers, from the NED set-aside. Given the low proportion of landings to quota overall in 2006, this situation would be unlikely.

Adding a substantial portion of the carryover to the Longline category quota is intended to ensure that the Longline category quota is not exceeded during the course of normal fishery operations. The Longline portion of the baseline quota is 94.4 mt, and information NMFS maintains from dealers, logbooks, and the observer program suggests that combined landings and dead discards could total 200 mt or more. Because NMFS must deduct estimated dead discards from the overall TAC available each fishing year, and because NMFS intends to account for dead discards against the quota category to which the discards are attributed, reallocation of the carryover among all categories (described in Section 2.1 and presented in Table 2) would minimize negative social and economic impacts to fishermen associated with overharvest of the U.S. quota, e.g., reduced future allocations.

The 10-percent limit on school BFT over a 4-year period is not expected to have any negative social or economic impacts to fishermen who fish for school size class BFT. The simultaneous increase in school BFT tolerance and decrease of the U.S. TAC results in the same amount of school BFT quota annually, i.e., both 8 percent of the previous U.S. TAC and 10 percent of the currently recommended U.S. TAC is 119 mt.

Conclusion

Alternative A2 is the preferred alternative as it is consistent with the Consolidated HMS FMP, ATCA, and the 2006 ICCAT recommendation. Ecological impacts between the two analyzed alternatives are similar. Reducing the baseline quota and capping the carryover of underharvest has the potential to decrease BFT fishing effort, which would result in slightly lower impacts to other nontarget species. Overall, short-term economic and social impacts to fishermen may be slightly negative for Alternative A2, although actual impacts will largely be attributable to the availability of BFT and ability of the fishery to harvest the quota. In addition, the negative social and economic impacts of exceeding the TAC designed to rebuild the BFT fishery are reduced and in the long term may be positive for fishermen if the fishery begins to rebuild. Socio-economic impacts are expected

to be neutral for certain sectors of the recreational fishery that rely solely on school size class BFT. Under each of the alternatives considered, there may be slight differences in the level of economic and social impacts experienced by the specific individuals of the BFT fishery, as well as by participants within a particular fishery sector.

4.2 Issue 2: Effort controls

Ecological Impacts

Effort controls in the General and Angling (handgear) categories are designed to have positive economic and social impacts overall, and have neither positive nor negative ecological impacts since they impact only the distribution of landings, and not the magnitude. Fishing mortality levels have been set via quotas established under a 20-year rebuilding plan for BFT, and other recommendations by ICCAT. The regulation of effort helps achieve optimum yield by considering the social and economic interests of the participants. Retention limits and restricted fishing days (RFDs) are unlikely to have any additional impact on the life history or overall distribution of the western Atlantic BFT stock. However, 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, the General and/or Angling category quotas could be met 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 the alternatives considered here, because the preferred effort controls can be adjusted during the BFT season by inseason actions.

Economic and Social Impacts

General Category RFDs -- Under Alternative B2, the preferred alternative, NMFS would publish a schedule of RFDs for the General category in the final BFT specifications. This alternative would implement the following RFDs: all Saturdays and Sundays from November 17, 2007, through December 31, 2007, plus November 22 (Thanksgiving Day) and December 25 (Christmas Day), 2007, to ensure the availability of BFT quota throughout the late season south Atlantic fishery. In the past, when catch rates have been high, this type of schedule has had positive economic consequences by avoiding oversupplying the market, extending the season, and providing predictability.

Implementing RFDs to assist in extending a late season fishery would have positive social and economic impacts to south Atlantic fishermen. Conversely, establishing RFDs during the south Atlantic area fishery could have negative social and economic impacts to fishermen fishing in northern Atlantic states who are willing to travel to fish off southern Atlantic states because their stay would be extended as well. However, these adverse impacts could be mitigated if the ex-vessel prices during the extended fishery off southern states are kept high by avoiding oversupplying the market. Overall, extending the season as late as possible would enhance the likelihood of increasing participation by fishermen in southern states and access to the fishery over a greater range of the fish migration, and is expected to provide better than average ex-vessel prices with an overall increase in gross revenues.

The use of RFDs during a season could also provide predictability for fishermen. Rather than the uncertainty of unscheduled season openings and closings as managed under in-season actions, fishermen would know ahead of time which days would be available for fishing, and would be able to plan travel to the area or engage in other fishing endeavors. This holds particularly true for charter/headboat vessels that rely on scheduling paying passengers in advance. This predictability would not apply during a slow season if RFDs were waived.

Alternative B1, the no action alternative, would not implement any RFDs with publication of the final specifications, but would use inseason management authority established in the Consolidated HMS FMP to close and re-open the season should catch rates warrant. This alternative is based on the assumption of a season with low catch rates and would have positive economic and social consequences if slow catch rates were to persist. Fishermen could choose when to fish or not based on their own preferences. If needed, RFDs could be added to slow down a late season fishery; however, this approach could have a negative socio-economic impact for northern area fishermen and dealers who travel to the southern area since they might not have the ability to sufficiently plan for the season. In addition, adding late season RFDs can be disruptive for planning purposes, particularly for charter/headboats but with some impact on private anglers as well.

General Category Retention Limits – The preferred alternative (Alternative C3) is to establish a three fish retention limit from the start of the General category fishing season through the first quota subperiod, which will end August 31, 2007. This alternative is expected to result in positive socio-economic impacts by providing the best opportunity to harvest the quota while avoiding oversupplying the market. Although a three fish bag limit resulted in an oversupply of the market and depressed ex-vessel prices for product in October 2003 (Table 10), landings at the beginning of the season (i.e., June-July) are usually much lower, and oversupply is considered unlikely. NMFS will need to monitor the landings closely and be prepared to reduce the retention limit if landings rates are higher than expected. Both the no action alternative (C1) and alternative C2 would provide lower retention limits (one fish and two fish, respectively), which may unnecessarily restrict the General category harvest and result in negative socio-economic impacts, including reduced gross revenues.

Angling Category Retention Limits (See Table 4) – The preferred alternative for Angling category retention limits (subalternative D1b) is to establish a retention limit of one school BFT (measuring 27 inches to less than 47 inches), plus two large school/small medium BFT (i.e., two fish measuring 47 inches to less than 73 inches), per vessel per day/trip. This alternative is expected to provide the greatest socio-economic benefit by maximizing use of the Angling category quota yet avoiding overharvest. The alternative would provide the same retention limit for both private and charter/headboat vessels. In addition, this three fish retention limit for charter/headboat vessels is expected to be sufficient enough to attract clients and should outweigh costs. Announcing the retention limit for the entire season is also expected to have positive socio-economic impacts for charter/headboats since they will be able to make bookings without concern about potential future reduction in retention limits.

Other subalternatives that would provide consistent retention limits for each vessel type are also anticipated to provide a positive social benefit of equity between private vessel anglers and charterboat anglers. However subalternative D1a (one fish measuring 27 inches to less than 73 inches per vessel per day/trip) is expected to be unnecessarily restrictive, and subalternative D1c (two fish measuring 27 inches to less than 47 inches, plus two fish measuring 47 inches to less than 73 inches, per day/trip) could be overly liberal and is most likely to result in overharvesting the quota.

Alternative D2 differentiates between vessel types, and could have the negative social impact of perceived inequity between vessel type, although NMFS has regulated these different sectors differently due to the inherent business nature of charter/headboats. Subalternative D2a (a total of three fish for private vessels and a total of five fish for charter/headboats) would probably allow sufficient quota to be harvested that would sufficiently offset the cost of fishing trips, provide incentive for booking charters, and harvest an amount of quota that would provide a positive economic impact, but may result in quota overharvest. Subalternative D2b (three fish per vessel for recreational and charter/headboats, with an increase to a temporary five fish maximum for charter/headboats during June/July/September) is expected to result in an increased harvest compared to the preferred alternative, which may result in quota overharvest. Subalternative D2c (two fish per vessel for recreational and charter/headboats increasing to three fish for charter/headboats during June/July/September) is expected to result in a reduced harvest compared to the preferred alternative, which would be a negative socio-economic impact.

Conclusion

The preferred alternative for General category RFDs is Alternative B2 because it provides predictability in late season scheduling and avoids oversupplying the market. To address economic and social concerns of southern Atlantic states, NMFS implements a series of RFDs including all Saturday and Sundays from November 17, 2007, through December 31, 2007, plus November 22 and December 25, 2007.

The preferred alternative for the early season General category retention limit is three fish per vessel per day/trip (Alternative C3). This retention limit is expected to provide the greatest opportunity for the General category to harvest the quota, which includes some carryover from the 2006 season, providing positive socio-economic impacts. If catch rates increase rapidly, NMFS can reduce the retention limit in order to avoid oversupplying the market and the potential for negative economic impacts. This alternative is not expected to have any negative ecological impacts based on the 1998 rebuilding plan.

The preferred alternative for the Angling category retention limits for the entire season is subalternative D1b, a category-wide retention limit of one school BFT (measuring 27 inches to less than 47 inches), plus two large school/small medium BFT (i.e., two fish measuring 47 inches to less than 73 inches), per vessel per day/trip. This alternative is expected to provide positive socio-economic impacts by balancing increased retention limits with avoiding an overharvest of the quota. In addition, this alternative will provide parity between recreational and charter/headboat vessels.

4.3 Impacts on Essential Fish Habitat

The area in which this action is planned has been identified as EFH for species managed by the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, the Caribbean Fishery Management Council, and the HMS Management Division of NMFS. This final rule is not expected to have any adverse impacts on EFH. Because this final rule does not have impacts beyond those previously analyzed in the Consolidated HMS FMP, no consultation is required. The HMS FMP states that Atlantic HMS occupy pelagic oceanic environments, which is the general operational range of the commercial and recreational HMS fisheries. The HMS FMP describes habitat damage by HMS gear, other than bottom longlines (which are not used in the BFT fishery), as negligible to the pelagic environment. Regulatory actions involving pelagic fishing gear are not anticipated to affect EFH for Atlantic HMS.

4.4 Impacts on Protected Species

On September 7, 2000, NMFS reinitiated formal consultation for all HMS commercial fisheries under Section 7 of the ESA. A Biological Opinion (BiOp) issued June 14, 2001, concluded that continued operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of endangered and threatened sea turtle species under NMFS jurisdiction. 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.

On June 1, 2004, the NMFS Office of Protected Resources issued a BiOp on the pelagic longline fishery. The 2004 BiOp found that the continued operation of the fishery was not likely to jeopardize the continued existence of loggerhead, green, hawksbill, Kemp's ridley, or olive ridley sea turtles, but was likely to jeopardize the continued existence of leatherback sea turtles. The 2004 BiOp identified RPAs necessary to avoid jeopardizing leatherbacks, and listed the reasonable and prudent measures (RPMs) and terms and conditions necessary to authorize continued take as part of the revised incidental take statement. On July 6, 2004, NMFS published a final rule (69 FR 40734) implementing additional sea turtle bycatch and bycatch mortality mitigation measures for all Atlantic vessels with pelagic longline gear onboard. NMFS is implementing the other RPMs in compliance with the 2004 BiOp. NMFS will undertake additional rulemaking and non-regulatory actions, as required, to implement any management measures that are required under the 2004 BiOp. For further information on HMS fishery interactions and protected species, including non-ESA listed marine mammals, see Section 3.9.9 of the Consolidated HMS FMP.

Relative to the 2002 ICCAT recommendation (which included the quotas in effect when the 2004 BiOp was issued), the 2006 ICCAT recommendation decreased the U.S. BFT quota by 299.5 mt; therefore, a reduction in overall effort relative to the level at the most recent consultation could be expected. The measures in these final 2007 quota specifications and effort controls, including the allocation of 25 mt to the Longline category for the northeast distant area (for incidental BFT catch

only) are not expected to alter current fishing practices or increase fishing effort, 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 and 2004 BiOps. Thus, this action 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, and no further consultation is necessary.

4.5 Environmental Justice Concerns

Executive Order (E.O.) 12898 requires that Federal agencies address environmental justice in the decision-making process. In particular, the environmental effects of Federal actions should not have a disproportionate effect on minority and low-income communities. This action would not have any effects on human health nor is it expected to have any disproportionate social or economic effects on minority and low-income communities. Any social or economic impacts are expected to be slightly positive because the final specifications implement a lower baseline U.S. quota and limit the amount of underharvested quota that may be carried forward, but also relieve restrictions and provide economic opportunities.

4.6 Coastal Zone Management Act (CZMA) Concerns

NMFS has determined that the regulations in this action are consistent to the maximum extent practicable with the enforceable policies of those coastal states in the Atlantic, Gulf of Mexico, and Caribbean that have approved coastal zone management programs. Letters were sent to those states requesting their concurrence. The following states have concurred with the consistency determination: New Hampshire, Rhode Island, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Florida, Alabama, Mississippi, and Louisiana. The remaining states did not respond; therefore, consistency is inferred.

4.7 Comparison of Alternatives

Table 9 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.

4.8 Cumulative Impacts

NMFS has taken a number of actions in the past in order to, among other things, prevent overfishing of BFT and rebuild the fishery. Past actions NMFS has taken include quotas set in accordance with ICCAT recommendations. In 1999, NMFS 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 2006a) concluded that the cumulative long-term impact of the final implementing actions, including the BFT rebuilding program and annual quota allocation process, would be to establish sustainable fisheries for Atlantic HMS.

On October 2, 2006, NMFS published final regulations, effective November 1, 2006, implementing the Consolidated HMS FMP, which consolidates the management of all Atlantic HMS (i.e., sharks, swordfish, tunas, and billfish) into one comprehensive FMP (71 FR 58058). These 2007 BFT specifications would be consistent with the Consolidated HMS FMP and with rulemaking completed in 2003 that modified the target catch requirements for pelagic longline vessels to retain incidentally caught BFT (68 FR 32414, May 30, 2003), and a regulatory amendment to address aspects of the commercial BFT fishery, including start and opening dates of various fishing categories, in particular extending the General category through January (68 FR 74504, December 24, 2003). This action also would be consistent with the publication, on July 6, 2004 (69 FR 40733), of a FSEIS for a final rule to implement management measures to reduce bycatch and bycatch mortality of Atlantic sea turtles in the Atlantic pelagic longline fishery (NMFS 2004).

ICCAT is scheduled to review the status of Atlantic BFT stocks during the first half of 2008. The stock assessment may result in recommended changes to the ICCAT BFT rebuilding plan 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. Reasonably foreseeable future actions could include: changes to BFT subquota allocations, size limits and tolerances, additional time/area closures, actions taken to reduce protected species interactions in HMS fisheries (e.g., implementation of the Pelagic Longline Take Reduction Plan).

The cumulative long-term ecological impacts of the preferred quota alternative are anticipated to be positive. The decrease in quota available under this alternative is expected to result in decreased impacts to target and nontarget species as a result of the potential decrease in fishing effort. The cumulative long-term ecological impacts of the preferred alternatives for General category and Angling category effort controls are anticipated to be neutral since they impact only the temporal and geographic distribution of landings, and not the magnitude. Fishing mortality levels have been set via quotas established under a 20-year rebuilding plan for BFT, and other recommendations by ICCAT.

The cumulative long-term economic and social impacts of the preferred quota alternative are anticipated to be positive as the preferred alternative in consistent with the BFT rebuilding plan. The cumulative long-term economic and social impacts of the preferred alternatives for General category effort controls are expected to be positive, since the RFDs would facilitate planning for fishermen

and would avoid market gluts and the retention limits would maximize gross revenues. The cumulative long-term economic and social impacts of the preferred alternative for Angling category effort controls are expected to be positive effort controls are they allow the maximum fishing opportunities while keeping within the Angling category quota and school BFT 10-percent tolerance limit.

Since the 1999 FMP, the majority of regulatory actions regarding BFT have been designed to improve BFT management and provide positive social and economic impacts to the fishery. For example, past adjustments to the target catch tolerance limits in both the harpoon and purse seine BFT fisheries and changes to the pelagic longline BFT incidental catch allowance provided marginal increases in social and economic impacts and responded to changing conditions in the environment and marketplace. 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. Annual management measures and inseason actions are analyzed and implemented to fully maximize the utilization of available quota and fishing opportunities for all fishery sectors.

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 from the final measures.

5.0 MITIGATION AND UNAVOIDABLE ADVERSE IMPACTS

5.1 Mitigating Measures

With the preferred alternatives, NMFS would implement the 2006 ICCAT recommendation in accordance with domestic legislation and the Consolidated HMS FMP and implementing regulations. Using its inseason management authority, NMFS will be able to monitor and make adjustments to the fishery close to "real time." Since NMFS will continue to monitor the fishery, any unpredicted increase in effort and landings of BFT, could be addressed within a fishing season.

The ICCAT-recommended decrease in TAC and the limit on the carryover of underharvest may result in negative direct, indirect, and cumulative economic and social impacts to certain sectors of the BFT fishery. Impacts to fishermen in the south Atlantic winter fishery would be mitigated by implementing the preferred alternative for an RFD schedule and by the time period subquotas established in the Consolidated HMS FMP. Both of these measures are designed to ensure General category quota is available late into the winter season.

5.2 Unavoidable Adverse Impacts

Although the final action would result in a decrease in base quota and limits the carryover of quota underharvest, it is consistent with the ICCAT BFT rebuilding plan, the Consolidated HMS FMP, ATCA, and the Magnuson-Stevens Act. NMFS does not expect a change in current fishing patterns or an increase in fishing effort compared to pre-2006 levels, when the U.S. quota was nearly 300 mt higher. The specific action to allocate additional BFT quota to the Longline category for the NED would not alter current impacts on threatened or endangered species. It also would not modify fishing behavior or gear type, nor would it expand fishing effort, because BFT are only allowed to be retained incidentally in that area. Thus, the preferred alternatives in this EA/RIR/FRFA would not be expected to cause adverse ecological impacts on target species, non-target species, or protected resources, or long-term socio-economic impacts. NMFS would continue to monitor the impact of the preferred alternatives of all issues and would propose additional management measures, as necessary, to avoid any unanticipated adverse impacts.

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.

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. Table 10 shows the average ex-vessel price of BFT per year for each category for the last 11 years.

Ex-vessel prices (nominal values) per category have fluctuated over the last few years. Accounting for inflation, for 2006, prices were lower for the Harpoon category, stable for the General category, and considerably higher for the Purse Seine and Longline categories relative to prices during 2005. Prices are influenced by the appreciation of the dollar relative to the yen over the last several years, as well as market supply conditions in Japan. 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.

6.2 Ex-vessel Gross Revenues

Ex-vessel gross revenues (nominal values) from recorded sales of BFT in all commercial categories for the last 11 years are presented in Table 12. Revenues for the General and Harpoon categories for 2006 were the lowest in the 11-year history. Incidental longline revenues are also low, but are expected to increase as landings continue through May 31, 2007. The combination of stable or reduced ex-vessel prices (Tables 10 and 11) and reduced commercial landings (Table 6) had a severe impact on ex-vessel gross revenues in 2004 through 2006. Ex-vessel gross revenues for all categories combined have declined steadily from a high in 2000. 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 longline sector vessels are required to report cost-earnings data. Given the lack of cost information, it is difficult to draw conclusions concerning net revenues (or profits) to bluefin tuna fishermen. 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 2006, 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 plans, 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 should 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 category fishery. Even without additional limited access management in the U.S. fishery, restrictive quotas set internationally by ICCAT, as part of the ICCAT Rebuilding Plan 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 fishermen. In 1992, a final rule went into effect prohibiting 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 greater 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 land 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 exemption 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 that 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 the economy. 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 that 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 and for 2006 (Table 12), 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 - $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 is not repeated here. However, Table 5a indicates the current number of permits by category in the BFT fishery, Tables 5b and 5c provide the number of permits by home port location, and Table 7 provides a summary of patterns of fishing activities.

6.5 Bluefin Tuna Processing and Export

The Consolidated HMS FMP includes a detailed discussion regarding the export, import, and re-export trade program and market for BFT. As noted above, over the last 4 years, total landings of BFT have declined, U.S. ex-vessel prices have fluctuated, and generally, ex-vessel gross revenues have declined. Until recently, the majority of domestically harvested BFT are exported, and there was a corresponding decrease in the amount of exports of BFT from 2002 to 2004. The reduction in amount of exports and decrease in the ex-vessel value of landings for this time period indicates a corresponding decrease in the value of exports, although these figures are not available for only Atlantic product. According to the Northeast Region BFT Landings Database, 292 mt (59 percent) of the 492 mt of commercial BFT harvested domestically in calendar year 2005 were exported, while 200 mt (41 percent) were sold on the U.S. market. During the 2005 fishing year, the United States imported approximately 731 mt of BFT harvested in the Atlantic Ocean, including the Mediterranean and Gulf of Mexico.

6.6 Expected Economic Impacts of the Alternatives

Below is a brief summary of the expected economic impact of each alternative grouped by issue as set forth in Sections 2 and 4 above.

6.6.1 Allocation of BFT among Domestic Fishing Categories

Under the no action quota alternative (A1), fishery participants would experience positive economic impacts on a scale similar to 2006 or years prior if all other factors remain constant (e.g., number of participants, ex-vessel values, catch rates, etc.). Potentially, overall gross revenues to the fishery could approximate those realized in 2003 through 2006 (Table 12). However, because there is variability in quota each fishing year due to the rollover provisions from the previous fishing year, the amount of available quota would likely not remain consistent with the level of a previous specific fishing year. The alternative would not significantly alter ex-vessel prices or costs or change economic benefits accrued at a level from 2006 or prior years.

The preferred quota alternative (A2), taken in accordance with the Consolidated HMS FMP and the 2006 ICCAT recommendation, would reduce the baseline quota by nearly 300 mt and would no longer include a dead discard allowance. Depending on the overall harvest, average ex-vessel value and average size of the fish caught per category, gross revenues may be reduced as a result of this quota decrease. Comparison of expected economic impacts under this action against those realized in recent years is complicated by the relative unavailability of fish in the New England region (as discussed in Section 3.2); ex-vessel gross revenues for fishing years since implementation of the most recent (2002) ICCAT recommended TAC, have ranged from $3.3 million for 2006 to $9.7 million for 2003.

The effect of allocations based on the new ICCAT-recommend TAC of 1,165.12 mt (the baseline U.S. quota after deduction of the NED set-aside), i.e., the expected change in ex-vessel gross revenues, was estimated for each category. The General category is allocated 47.1 percent of the annual BFT TAC. Based on the 2006 ICCAT recommendation, the General category allocation would decrease from the pre-2006 ICCAT recommendation level by 141 mt for the 2007 fishing year. Using the average ex-vessel price per pound in round weight for the 2006 fishing year of $7.52 (Table 10), this would result in a decrease of $2.34 million to the ex-vessel gross revenues for the category as a whole. Similar calculations show reductions for the other categories as follows: A reduction of 11.7 mt for the Harpoon category, which is allocated 3.9 percent of the annual BFT TAC, and for which the average ex-vessel price per pound in round weight for the 2006 fishing year was $5.45, would result in a decrease of $140,576 to the ex-vessel gross revenues for the category as a whole. A reduction of 24.2 mt for the Longline category, which is allocated 8.1 percent of the annual BFT TAC, and for which the average ex-vessel price per pound in round weight for the 2006 fishing year was $5.33, would result in a decrease of $284,363 to the ex-vessel gross revenues for the category as a whole. However, the additional set-aside quota of 25 mt to account for incidental BFT catch in the NED, would provide potential ex-vessel gross revenues of $293,763. A reduction of 55.7 mt for the Purse Seine category, which is allocated 18.6 percent of the annual BFT TAC, and for which the average ex-vessel price per pound in round weight for the 2006 fishing year was $4.28, would result in a decrease of $525,568 to the ex-vessel gross revenues for the category as a whole.

The recreational Angling category quota, which is allocated 19.7 percent of the annual BFT TAC, would decrease as a result of the 2006 ICCAT recommendation by 59.1 mt. Although NMFS

believes that recreational fisheries have a large influence on the economies of coastal communities, NMFS has little current information on the costs and expenditures of anglers or the businesses that rely on them. The change in the limit on school BFT to no more than 10 percent of the U.S. TAC over a 4-year period should have a neutral effect since the available quota is similar to the level when the limit was 8-percent of the U.S. TAC under the 2002 ICCAT recommendation. The region spanning from New York through Maryland region relies heavily on the school size class of BFT. In some regions, fishermen have access to the large school and small medium size classes, and impacts of a reduced school BFT quota could be mitigated by shifting effort to these larger fish. In regions dependent upon school BFT, shifting effort to other pelagic species (e.g. striped bass, bluefish) may be possible; however, the degree to which shifting effort might mitigate negative economic impacts is unknown. Because the baseline school BFT tonnage for 2007 is equivalent to the pre-2007 fishing year level, no negative impacts are anticipated.

6.6.2 Effort Controls

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 angler 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. Like 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, since 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.

General Category RFDs

A major intended outcome of regulating the pace of General category fishing activity with RFDs is to avoid over-supplying the market, with the intended result of an increase in the average price per fish. The preferred alternative (B2), to add a series of RFDs through the late season from November through January, is intended to have positive economic impacts to fishermen participating in the southern Atlantic fishery. The preferred alternative implements the following RFDs: all Saturdays and Sundays from November 17, 2007, through December 31, 2007, and November 22 and December 25, 2007, while the fishery is open, with the intent of pacing the late season fishery and ensuring the availability of BFT quota for an extended south Atlantic fishery.

Prior to 2000, almost all General category quota had been harvested by November 15 (Table 8). Since then, active inseason management and a change in BFT availability has made an average of 18 percent of the total General category quota available for a late season south Atlantic General category BFT fishery. Using the average price per pound for November 15, 2006 through January 31, 2007 ($8.53) and the landings after November 15, 2006 (58.3 mt), the estimated ex-vessel gross revenue for the 2006 late season fishery was approximately $1.1 million. Late season BFT fisheries often earn higher average monthly prices due to the higher average quality of the fish and the low supply of BFT on the market (Table 11). Extension of the General category into January since January 2004 has resulted in prices that have remained consistent with, or were above, prices for the November through December timeframe. The potential for oversupplying the late season market exists if very high catch rates occur, and caution needs to be used when regulating this last part of the fishing year.

The preferred alternative is intended to extend the late General category quota throughout the late season during an active General category fishery. If the fishery is slow, then these RFDs may be waived in order to provide General category fishermen a reasonable opportunity to harvest the quota. The pace of the General category fishery over the last several years has been extremely slow, and resulted in the waiver of the majority of RFDs that were implemented for the fishing year. RFDs in conjunction with a slow fishery could potentially deny fishermen fishing opportunities to catch the available quota with a corresponding negative impact to overall gross revenues.

The preferred alternative may have some negative economic impacts to northern area fishermen who choose to travel to the southern area during the late season fishery. Travel and lodging costs may be greater if the season is extended over a greater period of time as established under the preferred alternative. Those additional costs could be mitigated if the ex-vessel price of BFT stays high, as is intended under this alternative. Without RFDs, travel costs may be lower because of a shorter season; however, the market could be oversupplied and ex-vessel prices could fall. Overall, extending the season as late as possible is expected to enhance the likelihood of more extensive participation by southern area fishermen, to increase access to the fishery over a greater range of the fish migration, and to provide better-than-average ex-vessel prices with an overall increase in gross revenues.

General Category Retention Limits

Alternatives for retention limits of one, two, and three fish per vessel per day were considered for the first General category subperiod from the start of the season through August 31, 2007. Regardless of the alternative chosen, the retention limit could be adjusted during the fishing year with an inseason action if warranted. Situations that may warrant an inseason adjustment of retention limit include slow landings rates, which could warrant an increase in retention limit in order to increase gross revenues, or high landings rates which could warrant a reduction in retention limit in order to reduce oversupplying the market.

Both the no action alternative (C1) and Alternative C2, which would establish initial retention limits of one and two fish per vessel per day, respectively, could unnecessarily restrain the General category harvest in the early part of the season and result in a negative economic impact. The final General category quota for the 2007 fishing year includes a substantial amount of underharvest from 2006, which may be difficult for the General category to land during one fishing year, and landings in this category over the last few years have been extremely low relative to the annual quota. Landings in the late season have been increasing over the last several years, while landings in the early part of the season have been decreasing (Table 8). Because of slow early season landings in previous years, the retention limit for the General category was increased from one to two fish in early 2002 (67 FR 47470, July 19, 2002), 2003 (68 FR 35822, June 17, 2003), 2004 (69 FR 43535, July 21, 2004), and 2005 (70 FR 33040, June 7, 2005). The 2006 final rule set the retention limit beginning June 1, 2006, to three fish (71 FR 30619, May 30, 2006). The negative economic impact of limiting the General category early in the season (i.e., spring/summer) could be reduced gross revenues for the 2007 fishing year, particularly for the New England fishery where this early season fishery traditionally occurs.

The preferred alternative (C3) of an initial three fish retention limit for the General category is expected to result in positive economic benefits for the General category fishery by maximizing gross revenues during the early part of the season. As noted above, this alternative would be consistent with the historical approach used over the last 5 years. Providing a retention limit of three fish per vessel, which is the highest retention limit allowed under Federal regulations, is expected to increase the economic benefits that would accrue to the General category and maximize the opportunity for the General category to harvest the available quota during the 2007 fishing year.

There is some concern that a three fish retention limit could oversupply the market should landings suddenly increase. For example, the three fish retention limit provided to the General category in October 2003 (68 FR 56212, September 30, 2003) appeared to result in a decrease in ex-vessel prices (Table 11). However, this situation did not occur in 2006 and is not expected to occur during the early season of 2007 because BFT landings in the early season have not recently been as extensive as in the fall. However, considering the experience of October 2003, it will be especially important for NMFS to monitor landings closely during the early season and be prepared to adjust the retention limit if oversupply of the market appears imminent.

Angling Category Retention Limits

The Angling category retention limits considered would either be consistent for all vessel types fishing under this category, or would differentiate between private recreational vessels and charter/headboats. The retention limits that would not differentiate between the vessel types include low (one fish per vessel), moderate (up to three fish per vessel), and high (up to four fish per vessel) retention limit options. The limits that would differentiate by vessel type include year round, fairly liberal differential limits, and more restrictive limits that only vary during certain parts of the year. As discussed under the General category, regardless of which alternative is chosen, retention limits could be adjusted with an inseason action if warranted. However, NMFS' intent is to increase economic benefits by providing a reliable schedule of retention limits prior to the start of the season.

It is very difficult to predict economic impacts of Angling category retention limits for several reasons. First, as with the previous effort controls discussed, it is difficult to predict the availability of fish and the reaction of the fishery. In addition, very little information is available on the economics of the recreational and charter/headboat BFT fisheries.

NMFS assumes that the retention limit alternative that provides a consistent fishery and allows the largest amount of fish to the fishery without exceeding the quota would have the most positive economic impact for recreational fisheries. Remaining within the quota is economically important since ICCAT requires that quota overages be repaid with an additional penalty, and loss of quota in future years could be a negative impact to the recreational fishery. Economic factors that must be balanced with maximizing landings within the quota include distributing economic benefits across all regions of the fishery, the lowest retention limit for which an Angling category vessel is willing to make a fishing trip, and the need for predictability (particularly important for maximizing demand for charter/headboat fisheries). NMFS does not have any data that analyzes the degree of access to the BFT fishery in terms of the retention limits that would be necessary so that the benefits of participating in the fishery outweigh the costs, including opportunity costs. However, multiple fish retention limits have been requested by Angling category permit holders in the past.

The potential differences between charter/headboat and recreational fisheries are outlined in the introduction to this section which discusses the economic effects of effort controls. These differences include the commercial aspect of the BFT charter/headboat fishery, which is addressed under General category effort controls, since fishermen with HMS charter/headboat permits must abide by General category regulations when fishing commercially. Thus the only additional economic consideration for charter/headboats other than the economic considerations for private recreational fishermen is the need for business planning and potential need to attract clients with assured seasons and adequate retention limits. All of the considered alternatives are intended to provide a reliable schedule of retention limits for the fishing year in order to facilitate planning for vessels fishing under the Angling category and to distribute economic benefits across the entire range of the fishery.

Subalternative D1a (1 fish retention limit per vessel) would be the most likely to overly restrict Angling category landings and result in a negative economic impact since the quota might be underharvested. Likewise, alternative D2c could overly restrict private recreational vessels by limiting them to a two fish retention limit during the season, although it increases the retention limit

for charter/headboats for portions of the season for active charter/headboat fisheries in the mid-Atlantic. Conversely, subalternatives D1c and D2a would be most likely to result in negative economic impacts of allowing an overharvest of the Angling category quota since these subalternatives provide the most liberal retention limits for Angling category vessels. Subalternative D2b is more restrictive for charter/headboats than D2a but is less restrictive than the preferred alternative and has some risk (albeit less that for D2a) of resulting in an Angling category quota overharvest.

The preferred alternative (subalternative D1b) would establish a three fish retention limit for both types of Angling category vessels throughout the season. This subalternative best balances the considerations of maximizing the opportunity to harvest the quota without overharvesting it, and providing the greatest economic benefits to the widest temporal and spatial range of participants. This alternative is also considered to likely provide a sufficient retention limit to outweigh costs per trip for Angling category vessels. Thus, this alternative also would have positive benefits to charter/headboat businesses and is expected to be most reliable in distributing maximum economic benefits throughout the range of the fishery.

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 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.

7.1 Description of the Management Objectives

See Section 1 for a description of the objectives of this rulemaking.

7.2 Description of the Fishery

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

7.3 Statement of the Problem

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

7.4 Description of Each Alternative

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 the final action. The total amount of BFT landed and available for sale under this action is expected to provide slight net positive economic impacts, particularly over the long-term, from fishing at a level that is expected to allow for rebuilding of the stock by 2018. Table 13 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 final action described in this

EA/RIR/FRFA does not meet the above criteria, for example, the economic impacts as reflected in this final rule are under the $100 million threshold. This action raises no novel or legal policy issues as it sets fishing year BFT quotas for all domestic fishing categories consistent with international and domestic law and policy and establishes General and Angling category effort controls in accordance with the processes established in the Consolidated HMS FMP, and is not expected to result in any inconsistency with other agency actions. Therefore, under E.O. 12866, the final 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 13.

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.) and provides analysis of the economic impacts of the various alternatives on small entities. Certain elements required in a FRFA are also required as part of an environmental impact statement (EIS). Therefore, the FRFA incorporates the economic impacts identified in the EA.

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

See Section 1 for a description of the need and objectives for the final action.

8.2 A 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

NMFS received several comments on the proposed specifications (72 FR 16318, April 4, 2007) during the public comment period. A summary of these comments and the Agency's responses are included in Section 14 and are included in the final rule. NMFS received one comment specifically on the IRFA. The commenter wrote that the 2006 annual gross revenues ($3.4 million), if applied to the 8,751 commercially permitted vessels, would average less than $400 per vessel. The commenter felt that this must be an error given the expenses involved with fishing for BFT. The gross revenues presented in the analysis (which was updated for the final rule) represent the total of recorded sales of BFT in all commercial categories. NMFS agrees that the 2006 gross revenues were low and, for the General and Harpoon categories, were the lowest in over 10 years. However, availability of BFT to the commercial sector has been low in recent years, and many commercial participants are not solely dependent on BFT for fishing revenues. In addition, NMFS received two comments (one from an individual angler and one from an organization representing recreational anglers, the charter sector, and supporting industries) requesting an increased retention limit for BFT during certain windows of time due to the importance of school BFT to the charter sector and/or during tournaments. NMFS has considered this comment, as well as the many comments supporting the retention limits as proposed and has decided to finalize the retention limit of one school BFT and two large school/small medium BFT per vessel per day/trip to ensure that the ICCAT-recommended tolerance of school BFT is not exceeded over the 2007-2010 period while allowing continues access to this fishery.

8.3 Description and Estimate of the Number of Small Entities to Which the Final Rule Will Apply

The final action could directly affect the 35,075 vessel owners permitted in the HMS Angling category, the HMS Charter/Headboat category permit holders, or the Atlantic tunas commercial permit categories (General, Harpoon, Purse Seine, Longline, and Trap categories). Of these, 9,001 permit holders (the combined number of commercial category permit holders) are considered small business entities according to the Small Business Administration's standard for defining a small

entity.

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

None of the alternatives considered for this final rule would result in additional reporting, recordkeeping, and 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

One of the requirements of a FRFA is to describe any alternatives to the final 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 final rule, consistent with the Magnuson-Stevens Act, NMFS cannot exempt small entities or change the reporting requirements only for small entities. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. In addition, none of the alternatives considered would result in additional reporting or compliance requirements (category two 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.

The FRFA assesses the impacts of the various alternatives on the vessels that participate in the BFT fisheries, many of which are considered small business entities as described is Section 8.2. In order to do this, NMFS has estimated the average impact that the alternative to establish the 2007 BFT quota for all domestic fishing categories would have on individual categories and the vessels within those categories. As mentioned above, the 2006 ICCAT recommendation decreased the BFT quota allocation to 1,190.12 mt, to be distributed to the domestic fishing categories based on the allocation percentages established in the Consolidated HMS FMP. This quota allocation includes a

set-aside quota of 25 mt to account for incidental catch of BFT related to directed longline swordfish and non-BFT tuna fisheries in the NED.

As presented in Table 12, the annual gross revenues from the commercial BFT fishery during the 2006 fishing year were approximately $3.3 million. Approximately 9,000 vessels are permitted to land and sell BFT under four commercial BFT quota categories (including charter/headboat vessels). The commercial categories and their 2006 fishing year gross revenues are General ($2.4 million), Harpoon ($265,951), Purse Seine ($33,819), and Longline and Trap ($588,828). 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.

Data on net revenues of individual fishermen are lacking, so the economic impact of the alternatives is averaged across each category. NMFS considers this a reasonable approach for BFT fisheries. More specifically, available landings data (weight and ex-vessel value of the fish in price/pound) allow NMFS to calculate the gross revenue earned by a fishery participant on a successful trip. The available data do not, however, allow NMFS to calculate the effort and cost associated with each successful trip (e.g., the cost of gas, bait, ice, etc.) so net revenue for each participant cannot be calculated. NMFS cannot determine whether net revenue varies among individual fishery participants within each category, and therefore whether the economic impact of a regulation would have a varying impact among individual participants. As a result, NMFS analyzes the average impact of the alternatives among all participants in each category.

For the allocation of BFT quota among domestic fishing categories, NMFS analyzed a no action alternative and Alternative A2 (preferred alternative) which would implement the 2006 ICCAT recommendation. NMFS considered a third alternative (A3), which would allocate the 2006 ICCAT recommendation in a manner other than that designated in the Consolidated HMS FMP. However, since Alternative A3 would result in a de facto quota reallocation among categories, and an FMP amendment would be necessary for its implementation, NMFS did not further analyze it. Per the Consolidated HMS FMP, NMFS prepares quota specifications annually for the upcoming fishing year. Preparation of an FMP amendment would not be possible in the brief period of time between receipt of the ICCAT recommendation, which occurred in late November 2006, and the start of the 2007 fishing year on June 1, 2007. Therefore, analysis of the impacts of Alternative A3 is not available. But, if an FMP amendment was feasible, positive economic impacts would be expected to result on average for vessels in permit categories that would receive a greater share than established in the FMP, and negative economic impacts would be expected to result on average for vessels in permit categories that would receive a lesser share than established in the FMP. Impacts per vessel would depend on the temporal and spatial availability of BFT to participants.

As noted above, the preferred alternative (A2) would implement the 2006 ICCAT recommendation in accordance with the Consolidated HMS FMP and consistent with the ATCA, under which the United States is obligated to implement ICCAT-approved quota recommendations. Alternative 2 would have slightly positive impacts for fishermen. The no action alternative (A1) would keep the quota at pre-2006 ICCAT recommendation levels (approximately 300 mt more) and would not be consistent with the purpose and need for this action and the Consolidated HMS FMP. It

would maintain economic impacts to the United States and to local economies at a distribution and scale similar to 2006 or recent prior years, and would provide fishermen additional fishing opportunities, subject to the availability of BFT to the fishery, in the short term.

The preferred alternative also would implement the provision of the 2006 ICCAT recommendation that limits school BFT landings to 10 percent of the U.S. TAC, calculated on a four-year average. This is expected to have neutral impacts to fishermen who fish for school BFT, particularly those who rely exclusively on the school size class for BFT harvest, since the available quota is similar to the level when the limit was 8-percent of the U.S. TAC under the 2002 ICCAT recommendation.

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

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

A retention limit of three BFT (measuring 73 inches or greater per vessel per day/trip) is the preferred alternative for the opening retention limit for the General category, which would be in effect through August 31, 2007. This alternative is expected to result in the most positive socio-economic impacts by providing the best opportunity to harvest the quota while avoiding oversupplying the market, thus maximizing gross revenues. Other considered alternatives were the

no action alternative (one BFT 73 inches or greater per vessel per day/trip) and a retention limit of two BFT (73 inches or greater per vessel per day/trip). Both of these alternatives are expected to be too restrictive given the large amount of quota available for the General category during the 2007 fishing year and could result in the negative economic impact of lower gross revenues. Although early season landings seldom occur at a rate that could oversupply the market, NMFS will monitor landings closely to ensure that the increased retention limit does not contribute to an oversupply.

Six alternatives were considered for Angling category retention limits for the 2007 fishing year. The preferred alternative (D1b) is a three BFT retention limit (two fish measuring 47 inches to less than 73 inches and one fish measuring 27 inches to less than 73 inches) per vessel per day/trip for all sectors of the Angling category for the entire 2007 fishing year. The other two alternatives providing the same daily retention limits (per vessel) for both private recreational and charter/headboats were the no action alternative (D1a, i.e., one fish measuring 27 inches to less than 73 inches) and Alternative D1c (two fish measuring 47 inches to less than 73 inches and two fish measuring 27 inches to less than 73 inches). Alternative D1a was not preferred because it could unnecessarily restrict the amount of Angling category landings which could result in an underharvest of the quota and a negative economic impact. Alternative D1c was not preferred because it could result in an overharvest of the quota, with negative economic consequences.

Three other alternatives were considered that would provide different retention limits for the Angling category sectors. The first (D2a) would provide a private vessel daily retention limit of three fish (two measuring 47 inches to less than 73 inches and one measuring 27 inches to less than 47 inches) and a charter/headboat daily retention limit (per vessel) of five fish (three fish measuring 47 inches to less than 73 inches and two fish measuring 27 inches to less than 47 inches). The second alternative (D2b) would provide three fish (two measuring 47 inches to less than 73 inches and one measuring 27 inches to less than 47 inches) for each vessel per day/trip for the season, with an increase to five fish (three measuring 47 inches to less than 73 inches and two measuring 27 inches to less than 47 inches) per vessel for charter/headboats during June 15, 2007 through July 31, 2007, and the month of September 2007. The third alternative (D2c) would provide two fish (measuring 27 inches to less than 73 inches) less than 47 inches) for each vessel per day/trip for the season, with an increase to three fish (measuring 27 inches to less than 73 inches) per vessel for charter/headboats during June 15, 2007 through July 31, 2007, and the month of September 2007. Alternatives D2a and D2b were considered to be potentially too liberal with a greater potential for exceeding the Angling category quota for 2007. Alternative D2c was considered to be unnecessarily restrictive with a greater potential for negative economic impacts associated with not harvesting the entire quota. In addition, the D2 subalternatives were not preferred since they could result in perceived inequities between the two sectors of the Angling category fishery.

Alternative D1b is preferred because it would allow the landing of Angling category quota without overharvesting, provide sufficient retention limits to offset costs, reduce any perceived inequities between the charter/headboat and private recreational vessel sectors of the Angling category fishery, and provide economic benefits to all regional sectors of the fishery.

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 that 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 (NMFS 2006b). 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 impacts of the final action will be minor in all of these communities. The action to provide the 2006 ICCAT recommended quota decreases potential fishing opportunities (and positive economic impacts) relative to quota levels prior to the 2002 ICCAT recommendation. However, in the long-term, these lower quotas may increase the likelihood of a sustainable fishery in the future. The pattern of RFDs would allow fishermen to plan for fishing activities throughout the late season fishery and maximize ex-vessel prices. The retention limits for the General and Angling categories would allow for reasonable opportunities to harvest these quotas, and providing the alternatives for consideration would allow 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 in that it would prevent the overfishing of BFT and maintain the western Atlantic BFT rebuilding schedule recommended by ICCAT. Because the preferred alternative is based on the results of the 2006 ICCAT recommendation, the action 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. This action would minimize BFT bycatch to the extent practicable by reducing dead discards, accounting for dead discards taken in the pelagic longline fishery, and accounting for incidentally caught BFT in the NED against an ICCAT allowance quota (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, Mark Murray-Brown, 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
One Blackburn Drive
Gloucester, MA 01930
phone: (978) 281-9260 fax: (978) 281-9340

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, 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. Highly Migratory Species Management Division, Silver Spring, MD.

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. June 1, 2004.

NMFS. 2006 a. Final Environmental Assessment, Regulatory Impact Review, and Final Regulatory Flexibility Analysis for a Final Rule on 2006 Final Initial Atlantic Bluefin Tuna Quota Specifications, General Category Effort Controls, and Catch and Release Provision. U.S. Department of Commerce, National Marine Fisheries Service, Silver Spring, MD.

NMFS. 2006 b. Final Consolidated Atlantic HMS FMP. HMS Management Division, NMFS, Silver Spring, MD.

SCRS. 2006. Report on the Standing Committee on Research and Statistics, ICCAT Standing Committee on Research and Statistics, October 2-6, 2006.

14.0 PUBLIC COMMENT AND AGENCY RESPONSES

In addition to the comments received specifically on the proposed quota specifications and effort controls for the General and Angling categories, as summarized below, NMFS received comments on additional issues that are beyond the scope of the rulemaking for this action. NMFS received a request to relax all General category restrictions, including season duration and minimum size. Conversely, NMFS received several comments that, noting the overfished status of the stock, requested reduction of the U.S. BFT quota and commercial and recreational retention limits in general, an increase to the recreational minimum size, and prohibition of purse seine use due to bycatch concerns.

A. BFT Quotas

Comment 1: NMFS received a range of comments on the quota specifications. Some commenters supported the quotas as proposed. Others requested that NMFS distribute the underharvest carryover amount (595 mt) according to FMP percentages rather than as proposed. One commenter urged NMFS to set the Reserve at 40.7 mt, i.e., 2.5 percent of the adjusted U.S. quota and stated that unused Reserve should not be carried forward to the Reserve for the following fishing year. One commenter felt that underharvest should not be added to the following year's BFT quota given stock concerns and potential underreporting of landings.

Response: The specifications included in this rule reflect appropriate distribution of the underharvest allowed to be carried forward for the 2007 fishing year. Such distribution provides for several existing and potential management needs, namely: (1) Setting aside sufficient quota for a potential transfer to another ICCAT Contracting Party, if warranted; (2) providing sufficient quota for pelagic longline operations; (3) appropriately accounting for dead discards; and (4) distributing the remainder per the Consolidated HMS FMP allocation percentages. NMFS allocates 2.5 percent of the baseline 2007 U.S. quota in the Reserve, consistent with the Consolidated HMS FMP. The rollover of quota in the Reserve from one year to the next (rather than reallocation of the unused Reserve to one or more quota categories) allows NMFS to consider several factors (as established in § 635.27(a)(8)), within the fishing year, prior to making quota adjustments from the Reserve. The regulations regarding annual adjustment of the BFT quota at § 635.27(a)(10) provide NMFS the flexibility to apply the underharvest to the overall quota for the following fishing year, provided that the total of the adjusted category quotas and the Reserve is consistent with the ICCAT recommendation.

Comment 2: One commenter opposed allocation of 40 percent of the carryover amount to the Longline category, indicating such action is inappropriate given that the longline fishery incidentally catches BFT.

Response: The application of 236.6 mt of the 2006 underharvest to the Longline category quota is conducted for two reasons: (1) To provide sufficient quota for the subtraction of past longline dead discards; and (2) to provide for the continued operation of the Longline category vessels during the 2007 fishing year, including anticipated future dead discards as well as allowed incidental landings under current retention limits. The TAC for each Contracting Party is now inclusive of dead discards. The 2006 ICCAT recommendation changed the accounting practices for dead discards by eliminating an additional dead discard allowance, and, therefore, NMFS must

deduct the best estimate of dead discards from the fishing year quota. As these dead discards are attributed to the pelagic longline fishery, the dead discards are specifically deducted from the Longline category quota. Furthermore, distribution of the carryover amount by the FMP percentages would result in 48.2 mt added to the baseline amount (94.4 mt), for a total of 142.6 mt for the Longline category for the 2007 fishing year. After accounting for an estimated amount of dead discards (i.e., approximately 131 mt, assuming the amount is similar to the most recent available estimate), the quota for the Longline category would be 11.6 mt. This quota would not provide a sufficient amount of quota to allow for the legal landing of BFT taken incidental to catches of swordfish and other tunas.

Comment 3: Some commenters opposed the potential transfer of U.S. quota to other ICCAT Contracting Parties. One commenter specifically objected to the use of the Reserve in making such a transfer to any ICCAT Contracting Party with an allocation. This commenter's understanding of the agreement at ICCAT was that the transfer to a specific Contracting Party could be undertaken at the request of industry, using the quota associated with that industry.

Response: The 2006 ICCAT recommendation allows the United States to transfer up to 15 percent of its TAC, consistent with domestic obligations and conservation considerations. Before considering a possible quota transfer, the United States, through NMFS, would evaluate several factors, including the projected ability of U.S. vessels to harvest the U.S. TAC during the fishing year, and potential impacts to the stock. The United States would need to explore and analyze these factors prior to transferring quota through a separate action. In this action, NMFS is placing 178.5 mt (15 percent of the U.S. TAC) in the Reserve so that, if the United States were to approve a transfer, the quota could be from the Reserve and not from category-specific quotas.

B. General Category Effort Controls

Comment 1: NMFS received comments on the General category retention limit that ranged from support for the proposed three-BFT limit to a request for a zero-BFT limit.

Response: The regulations allow NMFS to adjust the General category retention limit of large medium and giant BFT over a range of zero (on RFDs) to three. Given the low early season harvest rate in recent years, NMFS is setting the June through August retention limit at three BFT to allow General category fishermen the maximum harvest of BFT possible while keeping within the quota of the first General category subperiod.

Comment 2: NMFS received a comment that the setting of RFDs for the 2007 fishing year may be an unnecessary administrative effort given the low harvest rate in recent years.

Response: NMFS sets the RFDs in this action to ensure that the agency has the flexibility to manage the pace of the fishery should the need arise. If NMFS determines during the fishing season that the November and December RFDs are not necessary, NMFS will take the appropriate inseason action to waive them.

C. Angling Category Effort Controls

Comment 1: NMFS received comments on the Angling category effort controls that were supportive of the retention limit and season as proposed. NMFS received comments from a recreational fishing organization that supported the retention limits as proposed, but requested a

fishing season of June 21 through December 31. Some commenters requested an increased retention limit for school BFT during specific time periods, due to the importance of catching school BFT in the charter fishing sector and in fishing tournaments. One commenter requested that NMFS shorten the school BFT fishing season by approximately two months.

Response: NMFS has considered adjustment of the retention limits for certain time periods as implemented for 2006. However, based on the large number of comments received that supported the proposed retention limits, an evaluation of retention limits and landings estimates over recent years, and the ICCAT recommendation that Contracting Parties not exceed the tolerance of school BFT over the 2007-2010 period, NMFS is setting the Angling category retention limit at one school BFT and two large school/small medium BFT per vessel per day/trip from the effective date of the final rule through the end of the fishing year.

Comment 2: Several commenters expressed concern about implementing a higher BFT retention limit, particularly for school BFT, because of the overfished nature of the western Atlantic BFT stock and because ICCAT recommends a "tolerance" on school BFT landings rather than a targeted fishery.

Response: NMFS agrees that the school BFT retention limit should be no more than one fish for the 2007 fishing year to ensure that landings are within the ICCAT-recommended 10-percent limit.

15.0 TABLES

Table 1. Adjustments to the final 2006 BFT quota (in metric tons (mt)).

Column A **Category**	Column B **Final 2006 Fishing Year Quota, as published (71 FR 30619; 05/30/06)**	Column C **Change in 2005 Fishing Year Landings from those published**	Column D **Adjusted 2006 Fishing Year Quota (B-C; for Table 2, Column A)**
Angling	380.1	-1.9	382.0
General	1,163.3	0	1,163.3
Harpoon	124.0	0	124.0
Purse seine	624.1	0	624.1
Longline total	268.2	10	258.2
North	70.5	-5.5	76.0
NED	79.9	0	79.9
South	117.8	15.5	102.3
Trap	5.3	0	5.3
Reserve	282.3	0	282.3
Total	**2,847.3**	**8.1**	**2,839.2**

Changes due to corrections in data or additional reported landings (since 2006 initial specifications were finalized).

Table 2. Calculations to determine final 2007 fishing year BFT quotas (in mt).

Category (% share of baseline quota)[1]	A Adjusted 2006 Fishing Year Quota (from Table 1, Column D)	B 2006 Fishing Year Landings[2] (as of 4/30/07)	C 2006 Fishing Year Underharvest (A-B)	D Application of carryover (Total=50% of 2007 U.S. TAC)[3]	E Application of Dead Discard Estimates	F Applied Adjustments to 2007 Fishing Year Quotas (*D+E*)	G Baseline Allocation for 2007 Fishing Year (June 1-Dec. 31, 2007)	H Final 2007 Fishing Year Quota (F+G)
Angling (19.7)	382.0	191.0	191.0	39.7	0.0	39.7	Total: 229.5 *SUBQUOTAS:* School 119.0 Reserve 22.0 North 45.8 South 51.2 Lg. Sch/Sm. Med 105.2 North 49.6 South 55.6 Trophy 5.3 North 1.8 South 3.5	**269.2** *SUBQUOTAS:* School 119.0 Reserve 22.0 North 45.8 South 51.2 Lg. Sch/Sm. Med 144.0 North 68.0 South 76.0 Trophy 6.2 North 2.1 South 4.1
General (47.1)	1,163.3	165.0	998.3	94.8	0.0	94.8	Total: 548.8 *SUBQUOTAS:*[4] Jun-Aug 289.8 Sept 153.6 Oct-Nov 75.3 Dec 30.1 Jan NA	Total: 643.6 *SUBQUOTAS:*[5] Jun-Aug 339.8 Sept 180.1 Oct-Nov 88.4 Dec 35.3 Jan NA
Harpoon (3.9)	124.0	22.2	101.8	7.9	0.0	7.9	45.4	**53.3**
Purse Seine (18.6)	624.1	3.6	620.5	37.4	0.0	37.4	216.7	**254.1**
Longline (8.1)	258.2	57.0	201.2	236.6	-131	105.6	94.4	**200.0**
North (- NED) NED South	76.0 79.9 102.3	21.6 7.9 27.5	54.4 72.0 74.8				37.8 25.0[6] 56.6	80.0 25.0 120.0
Trap (0.1)	5.3	0.0	5.3	0.2	0.0	0.2	1.2	**1.4**
Reserve (2.5)	282.3	0.0[7]	282.3	178.5	N/A	178.5	29.1	**207.6**
Total (100)[8]	2,839.2	438.8	2,400.4[9]	595.1	-131	464.1	1,165.1	**1,629.2**

[1] per Consolidated HMS FMP

[2] 2006 Fishing year landings figures (calculated as of April 30, 2007) are preliminary and subject to change; 2006 Fishing year Angling and Longline categories are open through May 31, 2007. Landings for the Angling category were estimated using Maryland and North Carolina tagging figures and LPS data; commercial landings were derived from the NERO BFT dealer report database.

[3] NMFS allocates the carryover such that the Longline category is provided sufficient quota for anticipated landings and discards during the 2007 fishing year and sufficient quota is maintained in the Reserve to allow for a potential quota transfer to another ICCAT Contracting Party, consistent with the ICCAT recommendation, if warranted. The remainder is distributed consistent with the category allocations in the Consolidated HMS FMP.
[4] Baseline subquota allocations are: June-August: 50%; Sept: 26.5%; Oct-Nov: 13%; Dec: 5.2%; January: 5.3%
[5] Example calculation for redistribution of January allocation (5.3% of 643.6, i.e., 34.1 mt): June-August subquota would be 50% of the 643.6-mt General category quota, plus share of January amount being redistributed, i.e., 321.8 mt + [(50/100-5.3)(34.1 mt)] = 339.8 mt
[6] 25 mt to account for bycatch of BFT in directed longline fisheries in the vicinity of the management area boundary, per 2006 ICCAT recommendation. Not included in total baseline allocation, which is allocated according to the category percentages contained in the Consolidated HMS FMP.
[7] Landings counting towards Reserve are based on current ongoing scientific research projects.
[8] Totals may not add, due to rounding.
[9] The United States agreed at the 2006 ICCAT meeting to transfer a total of 275 mt of current U.S. underharvest (i.e., underharvest of the 2006 fishing year quota) as follows: 75 mt and 100 mt for 2007 and 2008, respectively, to Mexico, and 50 mt for each of the years 2007 and 2008 to Canada. The remaining underharvest would be 2,125.4 mt. However, the 2006 ICCAT recommendation limits the carryover of underharvest to 50 percent of the initial TAC. See Column D.

Table 3: Comparison of the allocations under the two analyzed quota alternatives (Alternatives A1 and A2).

	Quota Alternative A1	Quota Alternative A2
ICCAT recommendation	2002	2006
Allocation scheme	Consolidated HMS FMP	Consolidated HMS FMP
Western Atlantic Total Allowable Catch (TAC)	2,700 mt	2,100 mt
Annual Total U.S. TAC	1,489.6 mt	1,190.12 mt
Northeast Distant gear restricted area (NED) set-aside (for use by Longline category)	25 mt	25 mt
Baseline Annual U.S. TAC	1,464.6 mt	1,165.12 mt
Suballocations:		
Angling category	288.6 mt	229.5 mt
General category	689.8 mt	548.8 mt
Harpoon category	57.1 mt	45.4 mt
Purse Seine category	272.4 mt	216.7 mt
Longline category	118.6 mt	94.4 mt
Trap category	1.5 mt	1.2 mt
Reserve	36.6 mt	29.1 mt

Table 4: Summary of alternatives: Angling category BFT retention limits (per vessel per day/trip), to apply June 1 through December 31, 2007, unless otherwise noted.

<table>
<tr><td></td><td colspan="2">Private vessel</td><td colspan="2">Charter/Headboat</td></tr>
<tr><td>Alternative</td><td>School (27-<47”)</td><td>Large school/ Small medium (47-<73”)</td><td>School (27-<47”)</td><td>Large school/ Small medium (47-<73”)</td></tr>
<tr><td>D1a</td><td colspan="2">1</td><td colspan="2">1</td></tr>
<tr><td>D1b*</td><td>1</td><td>2</td><td>1</td><td>2</td></tr>
<tr><td>D1c</td><td>2</td><td>2</td><td>2</td><td>2</td></tr>
<tr><td>D2a</td><td>1</td><td>2</td><td>2</td><td>3</td></tr>
<tr><td rowspan="2">D2b</td><td rowspan="2">1</td><td rowspan="2">2</td><td>1</td><td>2</td></tr>
<tr><td>increase to 2 effective only 6/15-7/31 and 9/1-9/30)</td><td>increase to 3 effective only 6/15-7/31 and 9/1-9/30</td></tr>
<tr><td rowspan="2">D2c</td><td colspan="2" rowspan="2">2</td><td colspan="2">2</td></tr>
<tr><td colspan="2">increase to 3 effective only 6/15-7/31 and 9/1-9/30</td></tr>
</table>

* Final action

Table 5a: 2006 Fishing Year (June 1, 2006 - May 31, 2007) Atlantic HMS and Atlantic tunas permits as of April 30, 2007.

Permit Category	Number of Permits
General	4,462
Harpoon	34
Purse Seine	5
Longline	236
Trap	7
HMS Angling (Recreational)	26,074
HMS Charter/Headboat	4,257
Total	**35,075**

Data Source: Atlantic HMS/Tunas Permit Database

Table 5b: Number of 2006 Fishing Year (June 1, 2006 - May 31, 2007) Atlantic HMS and Atlantic tunas permits as of April 30, 2007, by home port location (Atlantic coast and Caribbean).

	Permit Category							
Home Port Location	General	Harpoon	Purse Seine	Longline	Trap	HMS Angling	HMS Charter/Headboat	Total
Canada	0	0	0	0	0	6	0	6
Maine	423	15	0	2	0	350	82	872
New Hampshire	193	1	0	0	0	269	49	512
Massachusetts	1,430	16	4	11	1	2,876	617	4,955
Rhode Island	243	0	0	1	1	792	157	1,194
Connecticut	119	0	0	1	0	839	92	1,051
New York	279	0	0	15	1	2,077	358	2,730
New Jersey	274	2	1	29	2	3,586	589	4,483
Pennsylvania	20	0	0	9	0	274	55	358
Delaware	53	0	0	3	0	1,116	145	1,317
Maryland	57	0	0	6	0	1,525	171	1,759
District of Columbia	0	0	0	0	0	3	0	3
Virginia	100	0	0	4	0	1,231	151	1,486
North Carolina	689	0	0	14	0	2,400	485	3,588
South Carolina	81	0	0	3	0	1,010	148	1,242
Georgia	17	0	0	1	0	147	27	192
Florida	207	0	0	83	0	4,441	713	5,444
Alabama	25	0	0	1	0	452	76	554
Mississippi	17	0	0	0	0	180	24	221
Louisiana	47	0	0	44	1	642	82	816
Texas	27	0	0	9	0	671	168	875
Cayman Islands	0	0	0	0	0	4	0	4
Puerto Rico	114	0	0	0	1	918	24	1,057
U.S. Virgin Islands	30	0	0	0	0	85	20	135
British Virgin Islands	0	0	0	0	0	12	0	12

Data Source: Atlantic HMS/Tunas Permit Database

Table 5c: Number of 2006 Fishing Year (June 1, 2006 - May 31, 2007) Atlantic HMS and Atlantic tunas permits as of April 30, 2007, alphabetically by home port location (states and territories other than Atlantic coast and Caribbean).

	Permit Category			
Home Port Location	General	HMS Angling	HMS Charter/Headboat	Total
Alaska	0	4	1	5
Arkansas	0	6	0	6
Arizona	0	1	0	1
California	2	6	0	8
Colorado	1	3	1	5
Guam	0	0	1	1
Hawaii	0	0	1	1
Iowa	0	3	0	3
Illinois	0	6	1	7
Indiana	0	6	0	6
Kansas	0	1	0	1
Kentucky	0	3	0	3
Marshall Islands	0	2	0	2
Michigan	0	29	6	35
Minnesota	1	4	2	7
Missouri	1	7	0	8
North Dakota	0	2	0	2
Nebraska	0	1	0	1
Nevada	0	8	1	9
Ohio	2	16	3	21
Oklahoma	1	2	1	4
Tennessee	0	24	0	24
Utah	0	1	0	1
Vermont	3	17	0	20
Washington	0	2	0	2
West Virginia	6	9	6	21
Wisconsin	0	3	0	3
Wyoming	0	2	0	2

Data Source: Atlantic HMS/Tunas Permit Database

Table 6: BFT landings by year and category (metric tons), 1996 to 2006 (2006 fishing year landings as of April 30, 2007).

Category	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
General	575	679	706	714	725	933	898	595	344	234	165
Harpoon	58	53	60	59	53	68	41	53	30	23	22
Purse Seine	245	250	248	247	275	196	208	265	32	178	4
No. Longline	21	20	23	17	12	8	8	25	34	29	30
So. Longline	43	27	24	51	51	28	48	69	58	28	28
Trap	1	2	1	0	0	0	0	0	0	0	0
Angling	362	299	184	100	50	241	619	392	355	199	191
Total	**1,305**	**1,330**	**1,246**	**1,188**	**1,166**	**1,484**	**1,822**	**1,399**	**853**	**691**	**439**

BFT have been managed on a fishing year basis versus a calendar year basis, starting with the implementation of the 1999 FMP, and will revert to a calendar year basis as of January 1, 2008. Landings are presented on a calendar year (vs. fishing year) basis for 1996 through 1999.

2006 Fishing year landings figures (calculated as of April 30, 2007) are preliminary and subject to change. Totals may not add, due to rounding. For the Angling category, landings were estimated using revised preliminary LPS information, reported trophy BFT landings, and North Carolina tagging program information. Commercial landings information is from the NERO dealer report database.

Table 7. 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 8: General category landings of BFT before and after November 15, 1996-2006 (2006 fishing year data as of April 30, 2007).

Year	Before November 15		November 15 and After	
	Metric Tons	Percentage of Total	Metric Tons	Percentage of Total
2006	106.7	65	58.3	35
2005	166.1	71	67.7	29
2004	251.0	73	93.2	27
2003	486.9	82	108.1	18
2002	824.7	92	73.2	8
2001	894.8	96	38.1	4
2000	677.5	93	47.4	7
1999	714.4	100	0	0
1998	706.2	100	0	0
1997	679.9	100	0	0
1996	574.7	99	4.7	1
Total Average	**552.9**	**88.3**	**44.6**	**11.7**

BFT have been managed on a fishing year basis versus a calendar year basis, starting with the implementation of the 1999 FMP, and will revert to a calendar year basis as of January 1, 2008.

Data Source: 1996-2007 BFT Dealer Report Database

Table 9: 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: BFT QUOTA ALLOCATION						
A1. No Action	Distributes quota according to 2002 ICCAT Rebuilding plan. Higher mortality inconsistent with current rebuilding plan.	Same as 2006 level (neutral) ; no change in fishing patterns and no increase in effort	Same as 2006 level (neutral) ; no change in fishing patterns and no increase in effort	Positive, due to greater potential gross revenues.	Overall positive. Provides fishing opportunities similar to 2006 level.	Inconsistent with ATCA. (i.e., additional quota not allocated)
A2. Allocate TAC in accordance with 2006 ICCAT recommendation and Consolidated HMS FMP **(FINAL ACTION)**	Consistent with BFT rebuilding plan. Reduction of U.S. allocation by 300 mt expected to result in lower direct BFT fishing mortality.	Neutral to positive, associated with no change in fishing patterns and potential decrease in fishing effort	Neutral to positive, associated with no change in fishing patterns and potential decrease in fishing effort	Slightly positive, but lower than A1 due to decreased opportunities. Depends on ability of vessels to harvest quota.	Overall positive. Provide additional fishing opportunities	Consistent with ATCA, ICCAT 2006 Rec. and Consolidated HMS FMP
A3. Allocate TAC in accordance with 2006 ICCAT recommendation but not Consolidated HMS FMP	Not Analyzed	Not Analyzed	Not Analyzed	Not Analyzed	Not Analyzed	Not Analyzed
Issue 2: EFFORT CONTROLS						
RESTRICTED FISHING DAYS						
B1. No Action: No RFDs published in final BFT specifications; adjustments via inseason action(s)	Neutral	Neutral	Neutral	Mixed; may be positive or negative depending on catch rates.	Less positive than B2; depends on whether inseason action necessary or not to slow landings.	Administratively, it is more difficult for NMFS to add RFDs than it is for NMFS to waive previously approved RFDs, since the former further restricts fishing activities while the latter would relieve a restriction. Requires at least 3 day notice to implement.

B2. RFD schedule published in final BFT specifications **(FINAL ACTION)**	Neutral	Neutral	Neutral	Overall positive; facilitates planning, minimizes market gluts and extends season as long as possible	Overall positive; facilitates planning, minimizes market gluts and extends season as long as possible	

GENERAL CATEGORY RETENTION LIMIT						
C1. No Action: Initial General category retention limit of one BFT (73"+) per vessel	Neutral	Neutral	Neutral	Negative; lowest gross revenues	Overall negative because of economic impacts	Retention limits can be increased using inseason action(s), if necessary
C2. A two BFT (73"+) initial General category retention limit per vessel	Neutral	Neutral	Neutral	More positive than C1; would increase gross revenues	More positive than C1 because of economic impacts	Retention limits can be liberalized or reduced using inseason action(s), if necessary
C3. A three BFT (73"+) initial General category retention limit per vessel **(FINAL ACTION)**	Neutral	Neutral	Neutral	Most positive; best alternative to maximize gross revenues	Most positive because of economic benefits	Retention limits can be reduced using inseason action(s), if necessary (e.g., to avoid oversupplying the market)
ANGLING CATEGORY RETENTION LIMIT						
D1a. No Action: Initial Angling category retention limit of one 27-<73" BFT/ vessel per day/trip	Neutral	Neutral	Neutral	Negative; lowest BFT retention opportunities; potential for underharvest of quota	Negative, because of economic impacts; no perceived inequity between vessel types	Retention limits can be changed, if necessary, via inseason action(s)
D1b. An Angling category retention limit of one 27-<47" BFT and two 47-<73" BFT/vessel per day/trip **(FINAL ACTION)**	Neutral	Neutral	Neutral	Positive; provides best opportunity to harvest quota and sufficient retention limit to offset costs	Positive; no perceived inequity between vessel types; facilitates planning; positive economic benefits	Retention limits can be changed, if necessary, via inseason action(s)
D1c. An Angling category retention limit of two 27-<47" BFT and two 47-<73" BFT/vessel per day/trip	Neutral	Neutral	Neutral	Mixed; positive because of greater retention opportunities; negative because of substantial risk of quota overharvest	Negative because of economic impacts; however, no perceived inequity between vessel types and facilitates planning	Retention limits can be changed, if necessary, via inseason action(s)
D2a. A private recreational vessel retention limit of one 27-<47" BFT and two 47-<73" BFT/vessel per day/trip. Charter/headboat limit of two 27-<47" BFT and three 47-<73" BFT/vessel per day/trip.	Neutral	Neutral	Neutral	Negative; substantial risk of quota overharvest	Negative because of economic impacts; perceived inequity between vessel types; however, facilitates planning	Retention limits can be changed, if necessary, via inseason action(s)

D2b. A per vessel limit for both private recreational vessels and charter/ headboats of one 27-<47" BFT and two 47-<73" BFT/vessel per day/trip. Increase of charter/ headboat limit to two 27-<47" BFT and three 47-<73" BFT/vessel per day/trip 6/15-7/31 & 9/1-9/30.	Neutral	Neutral	Neutral	Less negative than D2a; some potential to overharvest quota	Less negative than D2a; perceived inequity between vessel type; however, facilitates planning	Retention limits can be changed, if necessary, via inseason action(s)
D2c. A per vessel limit for both private recreational vessels and charter/ headboats of two 27-<73" BFT/vessel per day/trip. Increase of charter/ headboat limit to three 27-<73" BFT/vessel per day/trip 6/15-7/31 & 9/1-9/30.	Neutral	Neutral	Neutral	Negative, especially for private recreational vessels; more restrictive than all alternatives other than no action (D1a).	More negative than all alternatives other than no action (D1a); perceived inequity between vessel type; however, facilitates planning	Retention limits can be changed, if necessary, via inseason action(s)

Table 10: Average ex-vessel price (per lb, round weight) for BFT by commercial fishing category, for the 1996-2006 fishing years (2006 fishing year data as of April 30, 2007).

Category	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
General	8.71	7.13	5.01	6.53	8.62	6.78	6.12	5.17	6.77	7.40	7.52
Harpoon	7.69	8.06	5.70	8.57	6.42	6.57	5.97	5.88	6.04	5.51	5.45
Incidental (Longline/Trap)	4.62	4.90	4.85	5.15	5.36	5.08	4.40	4.52	4.27	3.80	5.33
Purse Seine	8.61	8.33	5.78	6.36	6.58	6.17	5.79	4.01	4.73	2.73	4.28

Prices contained in the table reflect calendar year averages. The BFT fishery has been managed on a fishing year basis (June through May of the following year), starting with the implementation of the 1999 FMP, and will revert to a calendar year basis as of January 1, 2008.

In the economic analysis of BFT specifications in the last several years, NMFS has 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: 1996-2007 BFT Dealer Report Database

Table 11: Average monthly prices (per lb, round weight) for Atlantic bluefin tuna in the General Category, 1996-2007 (data as of April 30, 2007).

Year	January	June	July	August	September	October	November	December
2007	$10.01	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2006	$10.07	$4.15	$7.30	$6.40	$6.21	$7.54	$8.05	$8.26
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	--
1997	--	$7.09	$6.66	$7.74	$7.03	$8.06	$7.00	$2.39
1996	--	$7.81	$7.86	$8.55	$8.33	$9.97	$15.26	--

In the economic analysis of BFT specifications in the last several years, NMFS has 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: 1996-2007 BFT Dealer Report Database

Table 12: Ex-vessel gross revenues in the U.S. Atlantic bluefin tuna fishery by commercial fishing category, for the 1996-2006 fishing years (2006 fishing year data as of April 30, 2007)

Year	General	Harpoon	Incidental (Longline/Trap)	Purse Seine	Total
2006	$2,412,886	$265,951	$588,828	$33,819	$3,301,484
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
1997	$10,618,105	$900,108	$458,074	$4,581,837	$16,558,123
1996	$10,781,387	$919,717	$647,634	$4,445,852	$16,794,591

Revenues contained in the table reflect calendar year summaries. The BFT fishery has been managed on a fishing year basis (June through May of the following year), starting with the implementation of the 1999 FMP, and will revert to a calendar year basis as of January 1, 2008.

In the economic analysis of BFT specifications in the last several years, NMFS has reported values as converted to 1996 dollars (using the Consumer Price Index Conversion Factors). In this table, revenues are presented as nominal dollars, consistent with methods used in the Consolidated HMS FMP.

Data Source: 1996-2007 BFT Dealer Report Database

Table 13: Summary of expected net economic benefits and costs of alternatives.

Alternative	Net Economic Benefits	Net Economic Costs
Issue 1: BFT QUOTA ALLOCATION		
A1. No Action	Positive economic impacts on a scale similar to 2006	Potential long-term cost of future reduced quota
A2. Implement ICCAT recommendation, including 25 mt for longline **(FINAL ACTION)**	Less positive impacts than A1, but slightly positive net economic benefit from fishing per rebuilding plan	Opportunity cost of revenue foregone due to quota lower than that previously recommended by ICCAT recommendation
Issue 2: EFFORT CONTROLS		
RESTRICTED FISHING DAYS		
B1. No Action: No RFDs published in final BFT specifications; adjustments via inseason action(s)	Marginally positive by providing greatest degree of flexibility IF catch rates are low; none if catch rates are high	IF catch rates are high, may need to add RFDs inseason which could have negative impacts due to time required to implement and late scheduling changes for charter-headboats
B2. RFD schedule published in final BFT specifications **(FINAL ACTION)**	Positive IF catch rates high at end of season as will pace entry of product to market; positive for charter/headboat scheduling.	IF catch rates are low, may unduly limit catch further; if catch rates are very high, may be insufficient and require additional measures
GENERAL CATEGORY RETENTION LIMITS		
C1. No Action: Initial General category retention limit of one BFT (73"+) per vessel	Marginally positive if early season catch rates are very high; would avoid oversupplying market	Negative if catch rates are similar to those of recent early seasons; would restrain ex-vessel revenues
C2. A two BFT (73"+) initial General category retention limit per vessel	Positive, by increasing ex-vessel gross revenues	Negative if catch rates are similar to those of recent early seasons; would restrain ex-vessel revenues Negative if catch rates oversupply market without NMFS action to reduce retention limit
C3. A three BFT (73"+) initial General category retention limit per vessel **(FINAL ACTION)**	Most positive, by increasing ex-vessel gross revenues	Negative if catch rates oversupply market without NMFS action to reduce retention limit
ANGLING CATEGORY RETENTION LIMITS		
D1a. No Action: Initial Angling category retention limit of one 27-<73" BFT/ vessel per day/trip	Lowest because of reduced BFT retention opportunities but slightly positive by avoiding overharvest of quota	Negative because of potential for underharvest of quota and lowest BFT retention opportunities

D1b. An Angling category retention limit of one 27-<47" BFT and two 47-<73" BFT/vessel per day/trip **(FINAL ACTION)**	Positive, by maximizing landings with less potential of overharvesting and providing sufficient retention limits	Negative if quota is over or underharvested (less likely with this alternative)
D1c. An Angling category retention limit of two 27-<47" BFT and two 47-<73" BFT/vessel per day/trip	Positive, by providing greater retention opportunities	Negative if quota is overharvested
D2a. A private recreational vessel retention limit of one 27-<47" BFT and two 47-<73" BFT/vessel per day/trip. Charter/headboat limit of two 27-<47" BFT and three 47-<73" BFT/vessel per day/trip.	Positive, by providing the best opportunity to catch the quota and sufficient retention limits throughout season	Negative if quota is overharvested
D2b. A per vessel limit for both private recreational vessels and charter/ headboats of one 27-<47" BFT and two 47-<73" BFT/vessel per day/trip. Increase of charter/ headboat limit to two 27-<47" BFT and three 47-<73" BFT/vessel per day/trip 6/15-7/31 & 9/1-9/30.	Positive by providing seasonal increased retention opportunities for charter/headboats, with less potential to overharvest quota	Negative if quota is overharvested
D2c. A per vessel limit for both private recreational vessels and charter/ headboats of two 27-<73" BFT/vessel per day/trip. Increase of charter/ headboat limit to three 27-<73" BFT/vessel per day/trip 6/15-7/31 & 9/1-9/30.	Slightly positive, by providing more opportunity than the default limit while avoiding overharvest of quota	Negative because of greater potential to underharvest quota