

tier of target catch requirements by requiring the landing of 30,000 lbs. (66,138 kg) of target fish to land three BFT. In addition, the proposed rule would have adjusted the Longline category subquotas to allocate 70 percent to the southern area and 30 percent to the northern area. The final rule divides the Longline category subquotas to allocate 60 percent to the southern area and 40 percent to the northern area. Finally, the advance notice for in season adjustment to target catch requirements was reduced from 30 days to no less than 21 days. These changes were made to further reduce dead discards of BFT, minimize negative social and economic impacts to the fishery, and to respond to comments regarding the changed fishing patterns of the pelagic longline fleet.

#### Comments and Responses

*Comment 1:* Numerous comments supported establishing a target catch requirement in terms of a specific weight versus a percentage to allow for the retention of incidentally caught BFT. Comments stated that the pelagic longline fishery has changed since the two-percent target was implemented and having one set of target catch requirements coastwide will simplify regulations and facilitate compliance. A specific weight tolerance will also assist enforcement agents in assessing compliance.

*Response:* The final action establishes target catch requirements as specific weights, rather than as percentages, with the intent of reducing BFT discards in all areas, and at the same time minimizing confusion and providing positive economic impacts to longline vessels in both southern and northern management areas. NMFS believes that a specific target weight regardless of geographic location would simplify regulation and facilitate compliance.

*Comment 2:* NMFS should allow for a third and/or fourth tier of target catch to allow vessels to land three and/or four BFT for those vessels conducting longer trips. For example, NMFS should establish a target catch requirement for all areas, at all times of 20,000 lbs. (44,092 kg) to retain three BFT, and of 30,000 lbs. (66,138 kg) to retain four BFT. Other comments suggested NMFS allow full retention of all catch to eliminate all discards and bring the agency into full compliance with the Magnuson-Stevens Act.

*Response:* NMFS has modified the final action to include a third tier of target catch allowance in the final action, explicitly allowing the retention of 3 BFT with 30,000 lbs. (66,138 kg) of target catch. This additional tier of

target catch is consistent with the previous percentage-based target catch requirements that allowed a few vessels to land three BFT in conjunction with 30,000 lbs. (66,138 kg) of target catch. The proposed rule for this action would not have allowed these few vessels to retain three BFT regardless of the target catch onboard. Although only a handful of vessels are large enough to complete trips with target catches greater than 30,000 lbs. (66,138 kg), allowing these vessels to retain three BFT would further meet the intent to reduce discards of BFT, avoid incentives to target BFT, and not risk overharvest of the incidental catch quota.

*Comment 3:* The preferred alternatives may not be providing a reasonable opportunity for pelagic longline vessels to harvest the quota allocated to that category. The inseason adjustment authority should not be limited to a range of zero to three BFT per trip and/or by 25 percent of the target catch requirements.

*Response:* Under the Atlantic Tunas Convention Act, NMFS is required to provide U.S. fishermen a reasonable opportunity to take the BFT quota allocated to the United States by the ICCAT. Pelagic longline vessels are not allowed to target BFT and thus there is no directed fishery on BFT. However, due to the incidental catch of BFT in pelagic longline operations targeting other species, NMFS has provided a quota and target catch requirements to provide pelagic longline vessels a reasonable opportunity to land their incidentally caught BFT in order to reduce discards and provide positive economic impacts to the pelagic longline fishery.

*Comment 4:* Numerous comments stated support for the relocation of the boundary line separating the northern and southern management areas to 31°00' N. lat., near Jekyll Island, Georgia. This is an area with little longline activity and should reduce confusion regarding the area in which incidental BFT were harvested. Other comments stated that the Gulf of Mexico should be off limits to all retention of BFT by pelagic longline vessels and a boundary line should be established in the Straits of Florida.

*Response:* NMFS' final action maintains the proposed location of the boundary line at 31°00' N. lat., near Jekyll Island, Georgia. The intent of the line is to account for seasonal differences in the fisheries within each area and to prevent one area from consuming all available quota. The location of the line was chosen in an area with little longline fishing activity to facilitate enforcement and reporting.

Eliminating the incidental retention of BFT by pelagic longline vessels operating in the Gulf of Mexico would not meet the intent of this rulemaking, as it could increase discards, and have negative impacts to pelagic longline fishermen.

*Comment 5:* Comments stated support for a reallocation of the Longline category quota based on the new location of the North/South boundary line. Comments suggested the preferred alternative of 30 percent for the northern area and 70 percent for the southern area should be reconsidered. The proposed allocation may not reflect the current fishing patterns of the pelagic longline fishery and may lead to increased effort and mortality on spawning BFT in the Gulf of Mexico, which has been designated by ICCAT as a spawning area in the Western Atlantic Ocean. Some comments suggested NMFS should re-calculate the North/South subquota allocation based on the number of hooks versus the number of sets. Some comments suggested a quota split of 50/50, while others suggested a split of 40 percent for the northern area and 60 percent for the southern area.

*Response:* Based on the analysis conducted in the Environmental Assessment, Regulatory Impact Review, and the Regulatory Flexibility Analysis, NMFS has determined that an adjustment to the Incidental Longline category subquota allocation between areas is warranted. Due to the movement of the boundary line and the adjustments in the target catch allowances in both the northern and southern areas, and the apparent redistribution of longline effort in response to bycatch reduction measures, NMFS adjusts the Longline category subquota to allocate 60 percent to the southern area and 40 percent to the northern area. This adjustment is made to reflect the estimated additional landings likely to be applied in the northern area based on the above analysis. The amount of BFT landed is expected to approach the subquota levels of the Longline category fishery, but not exceed them.

*Comment 6:* Some comments stated that NMFS should increase the number of observers in the Gulf of Mexico pelagic longline yellowfin tuna fishery. *Response:* ICCAT requires five percent of the pelagic longline trips to be selected for observer coverage. Vessels are selected based on a random five percent sampling of sets. Actual deployment of observers on vessels in the past had been constrained by a number of factors including logistic requirements and safety concerns and thus it has not been possible to place