ISSUES AND OPTIONS PAPER

FOR

REVISED MANAGEMENT OF

ATLANTIC TUNAS, SWORDFISH,

SHARKS, AND BILLFISH

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Highly Migratory Species Management Division
Office of Sustainable Fisheries
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

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1.0 PURPOSE OF THIS DOCUMENT AND THE SCOPING PROCESS

The National Marine Fisheries Service (NOAA Fisheries) intends to amend the 1999 Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) and the 1999 Amendment 1 to the Atlantic Billfish Fishery Management Plan (Billfish FMP). This scoping or comment phase is an integral first step in informing the public of management issues and soliciting public comment on possible future regulatory actions. Involving the public, to the greatest extent practical, is paramount to achieving regulatory actions and measures that best serve the public good.

Amendment 2 to the HMS and Billfish FMPs will examine management alternatives that aim to rebuild stocks, prevent overfishing, improve data collection methodology, enhance enforcement of regulations, and maintain the United States' compliance with multilateral treaties relating to highly migratory species (HMS). This issues and options document describes relevant issues related to HMS, current management and legal requirements, and some of the possible alternatives available to address the issues.

Public input is critical during the FMP Amendment process and is the only means of ensuring that a full range of alternatives to current management measures and regulations is explored. Cognizant of the fact that the views of commercial fishing, recreational fishing, conservation, academia, regional fishery management councils, states, and the general public are integral to attaining sound management of HMS, NOAA Fisheries seeks and encourages comments from these parties via the circulation of this issues and options document. NOAA Fisheries anticipates that additional issues and options will be identified by the public during the scoping meetings (see Table 1.1). These additional issues and options will also be considered when drafting Amendment 2 to the HMS and Billfish FMPs (see Table 1.2).

Table 1.1 Scoping Schedule

Location	Address	Date	Time
Gloucester, MA	Gloucester Lyceum and Sawyer Free Library 2 Dale Ave. Gloucester, MA 01930	May 19, 2004	7-9 PM
Ocean City, MD	Ocean City Council Chambers 301 Baltimore Ave. Ocean City, MD 21842	June 2, 2004	7-9 PM
New Orleans, LA	Elquier Regional Library 3014 Holiday Dr. New Orleans, LA 70131	June 3, 2004	7-9 PM
Manteo, NC	North Carolina Aquarium Roanoke Island PO Box 967 Airport Road Manteo, NC 27954	June 8, 2004	7-9 PM
San Juan, Puerto Rico	Carnegie Library (Biblioteca Carnegie) Ponce De Leon Ave. #7 San Juan, Puerto Rico 00901	June 10, 2004	2-4 PM
Destin, FL	Destin Community Center 101 Stahlman Ave. Destin, FL 32541	June 17, 2004	7-9 PM
Montauk, NY	Montauk Fire House 12 Flamingo Avenue Montauk, NY 11954	June 22, 2004	7-9 PM
Port Aransas, TX	University of Texas Marine Science Institute Visitor's Center (located on Cotter St. near beach) 750 Channel View Dr. Port Aransas, TX 78373	June 24, 2004	7-9 PM
Cocoa Beach, FL	Cocoa Beach Public Library 550 North Brevard Avenue Cocoa Beach, FL 32931	June 30, 2004	7-9 PM

Table 1.2 Preliminary Schedule for the Development of Amendment 2 to the HMS FMP and the Billfish FMP

July 9, 2003	Publication of the Notice of Intent to prepare the Amendment/Environmental Impact Statement in the Federal Register (68 FR 40907)
November 11, 2003	End of Comment Period of Notice of Intent
February 9-11, 2004	HMS and Billfish Advisory Panels Meeting, Silver Spring, MD
May-July, 2004	Scoping Meetings
Fall 2004	Pre-draft of Amendment
Late Fall 2004	Draft Amendment and Proposed Rule Published
Winter 2005	End of Comment Period on Proposed Rule and Draft Amendment
Spring 2005	Final Amendment Published
Summer 2005	Final Rule Published and Effective

2.0 MANAGEMENT HISTORY

2.1 Highly Migratory Species Management

Before 1990, five fishery management councils had authority to manage Atlantic HMS found in their regions. In 1985, several of those councils implemented the original Swordfish FMP and, in 1988, the original Billfish FMP.

On November 28, 1990, the President of the United States signed into law the Fishery Conservation Amendments of 1990. This law amended the Magnuson Act and gave the Secretary of Commerce the authority to manage Atlantic tunas and other HMS in the exclusive economic zone (EEZ) of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea (16 U.S.C. 1811 and 16 U.S.C. 1854(f)(3)). The Secretary subsequently delegated this authority to manage these Atlantic HMS to the National Marine Fisheries Service (NOAA Fisheries). In 1996, Congress amended the Magnuson Act with the Sustainable Fisheries Act, re-naming it the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), to require that NOAA Fisheries establish advisory panels (APs) to assist in the development of fishery management plans (FMPs) and FMP amendments for Atlantic HMS. As a result, NOAA Fisheries established the HMS and Billfish APs and, in 1999, finalized and implemented the HMS FMP and Amendment 1 to the Billfish FMP. The regulations for Atlantic HMS can be found at 50 CFR part 635.

Since 1966, the International Convention for the Conservation of Atlantic Tunas (ICCAT) has been responsible for international conservation and management of tuna and tuna-like species. ICCAT currently includes 41 contracting parties, including the United States, and its stated objective is to "cooperate in maintaining the populations of these fishes at levels which will permit the maximum sustainable catch for food and other purposes." Atlantic tunas, swordfish, and billfish are subject to ICCAT management authority.

Recommendations adopted by ICCAT are promulgated in the United States under the Atlantic Tunas Convention Act (ATCA) which was signed in 1975 (16 U.S.C. 971) and authorizes the Secretary of Commerce to administer and enforce all provisions of ICCAT. Regulations promulgated under ATCA are, to the extent practicable, consistent with the FMPs prepared and implemented under the Magnuson-Stevens Act.

2.2 Atlantic Tunas

2.2.1 Management History

Bluefin tuna (*Thunnus thynnus*) are managed under the 1999 HMS FMP. ICCAT determines quotas for bluefin tuna (BFT) based on recommendations from its Standing Committee on Statistics and Research (SCRS) and NOAA Fisheries implements the quotas pursuant to ATCA. In 1998, ICCAT adopted a recommendation for a rebuilding program for western Atlantic BFT with the goal of reaching stock levels to support maximum sustainable yield in 20 years. The

annual western Atlantic BFT total allowable catch of approximately 2,700 metric tons (mt) whole weight (ww) is shared between the United States, Japan, Canada, the United Kingdom territory of Bermuda, and the French territories of St. Pierre and Miquelon. The recommendation also provides a four year period to balance the eight percent tolerance for BFT under 115 cm (young school and school BFT). The Rebuilding Program provides flexibility to alter the total allowable catch, the maximum sustainable yield target, and/or the rebuilding period based on subsequent scientific advice.

All other Atlantic tuna species comprising the BAYS tuna complex (Bigeye, Albacore, Yellowfin, and Skipjack) are also managed under the HMS FMP and are subject to ICCAT and ATCA provisions. Detailed information regarding the management history of BAYS tunas is provided in the HMS FMP and/or the 2003 and 2004 Stock Assessment and Fishery Evaluation (SAFE) reports.

2.2.2 Description of the Fisheries

In the United States, Atlantic tunas permits are currently issued in seven categories: General, Angling, Charter/Headboat, Harpoon, Purse Seine, Longline, and Trap. The Purse seine category has been managed under an Individual Transferable Quota system since 1982. After issuance of the HMS FMP, the Angling and Charter/Headboat categories were changed from tuna-specific to all HMS. An HMS Angling category permit is required to fish for sharks, swordfish, billfish, and/or tunas recreationally (i.e., no sale) and an HMS Charter/Headboat permit is required for those who own vessels for hire and wish to target HMS. The Longline category permits are only valid if the vessel owner also holds both an Atlantic swordfish and an Atlantic shark limited access permit. The General category, Trap, and Harpoon categories are open access at this time and are specific only to persons wishing to fish for Atlantic tunas.

As of December 2003, there were approximately 28,789 vessels permitted to participate in the Atlantic tuna fisheries, including 5,529 General category vessels; 18,804 Angling category vessels; 4,167 Charter/Headboat category vessels; 235 Longline category vessels; 47 Harpoon category vessels; two Trap vessels, and five Purse seine category vessels. More information can be found in the 2003 and 2004 SAFE reports and the 1999 HMS FMP.

There are seven size classes for BFT, including (in ascending order): young school, school, large school, small medium, large medium, and giant.

2.2.3 Opportunities for Amendment 2

Issues that may be addressed for tunas (BFT and BAYS tunas) include: developing a Rebuilding Program for northern Albacore tuna, revising regulations regarding filleting at sea, revising General category BFT quota allocations, and adjustments to commercial BFT dealer reporting.

2.3 Swordfish

2.3.1 Management History

The U.S. Atlantic swordfish fishery is managed under the HMS FMP under the authority of the Magnuson-Stevens Act and ATCA. There are two distinct management units for Swordfish in the Atlantic Ocean, north and south, divided at 5˚ N latitude. Because the southern stock is located south of 5° N, south Atlantic Swordfish are not within the management authority of the Magnuson-Stevens Act. However, the stock and its fishery are included in the HMS FMP because south Atlantic Swordfish are managed by ICCAT and because there are U.S. Swordfish fishermen who fish in the south Atlantic.

The first Atlantic Swordfish FMP was completed and implemented in 1985 by the South Atlantic Fishery Management Council in cooperation with other Atlantic Fishery Management Councils. This FMP laid the ground work for defining approved fishing methods, determining optimum yield and status of stocks, implementing variable season closures, and regulating foreign fishing in U.S. waters. Swordfish management was transferred from the fishery management councils to NOAA Fisheries in 1991. Since that time, numerous management initiatives have been implemented including a minimum size limit, commercial quotas changes and a ban on drift gillnets for Swordfish.

In response to a 1996 stock assessment that indicated that biomass was only 58 percent of that needed to support maximum sustainable yield (MSY), ICCAT further reduced north Atlantic Swordfish quotas for 1997 through 1999, although the total allowable catch (TAC) still exceeded replacement yield. In 1997, the SCRS determined that the failure to achieve significant overall reductions in north Atlantic fishing mortality, due in part to non-compliance by some fishing nations, had resulted in the need for more severe reductions to achieve the recovery of this over-exploited species. Also in 1997, as a result of changes to the Magnuson-Stevens Act, NOAA Fisheries began the process of establishing a rebuilding plan for north Atlantic Swordfish. This process was completed in 1999 with the publication of the HMS FMP that revised quotas for Swordfish, established size and retention limits, enacted bycatch reduction measures, and initiated a handgear permit. Since that time, other management measures affecting Swordfish fishermen have been implemented including time/area closures for pelagic longline gear. Based on the 2002 stock assessment that indicated Swordfish populations may be rebuilding, ICCAT recommended increasing the north Atlantic Swordfish harvest quota.

2.3.2 Description of the Swordfish Fishery

The U.S. directed fishery for north Atlantic Swordfish is confined by regulation to two gear types: longline and handgear. Pelagic longlining accounts for approximately 98 percent of U.S. directed swordfish landings. Driftnets were allocated two percent of the U.S. north Atlantic directed fishery quota in the past, however, this gear was banned by NOAA Fisheries in 1999. Also in 1999, NOAA Fisheries limited access to the commercial fishery. Incidental catches by fishing gears other than pelagic longline and handgear are restricted to incidental commercial retention limits of two to five swordfish per trip depending on gear type, and are counted against the incidental catch quota. As of October 2003, there were 206, 99, and 95 permit holders for

directed, incidental, and handgear permits, respectively.

The recreational fishery encountered few Atlantic Swordfish in the past, making it exempt from U.S. Swordfish quotas prior to the implementation of the 1999 HMS FMP. However, that FMP required that all recreational swordfish landings be subtracted from the U.S. Incidental quota, and mortality be reported to ICCAT. One objective of that FMP is to rebuild the swordfish stock such that recreational fishermen may enjoy an enhanced recreational experience through higher interactions with swordfish. Currently, recreational permit holders are allowed one Swordfish (> 47 inches lower jaw fork length and >33 lbs dw) per person, or up to three per vessel per day.

Detailed information on swordfish landings can be found in the 2003 and 2004 SAFE reports.

2.3.3 Opportunities for Amendment 2

The United States has agreed to an international Rebuilding Program, and NOAA Fisheries has implemented measures to rebuild north Atlantic swordfish including: commercial area closures, permits, minimum sizes, accounting for discard mortality, and a recreational bag limit (1/person, 3/vessel). Amendment 2 may include the authorization of in-season recreational bag limit adjustments and a possible increase in the bag limit for charter/headboats. Changes to the limited access program may address ongoing issues regarding the incidental trip limits for incidental permit holders. Also, Amendment 2 will examine the effectiveness of current time/area closures for pelagic longline gear.

2.4 Atlantic Sharks

2.4.1 Management History

Sharks have been managed by the Secretary of Commerce since 1993. At that time, NOAA Fisheries implemented the FMP for Sharks of the Atlantic Ocean, which established three management complexes: large coastal sharks (LCS), small coastal sharks (SCS), and pelagic sharks. This 1993 FMP implemented commercial quotas for LCS and pelagic sharks and established recreational retention limits for all sharks, consistent with the LCS rebuilding program. As a result of the 1996 amendments to the Magnuson-Stevens Act, the HMS FMP revised much of the management of Atlantic sharks including establishing new commercial quotas, a commercial size limit, a recreational bag limit, a new rebuilding plan for LCS, and a limited access program for the commercial fishery.

Several groups sued NOAA Fisheries regarding these regulations and the science on which they were based. In 2002, based on new stock assessments for LCS and SCS, NOAA Fisheries began the process to develop Amendment 1 to the HMS FMP. Final Amendment 1 and its implementing regulations were published in late 2003 and included: aggregating the LCS complex, using maximum sustainable yield as a basis for setting commercial quotas, eliminating the commercial minimum size, establishing regional commercial quotas and trimester commercial fishing seasons, adjusting the recreational bag and size limits, establishing gear

restrictions to reduce bycatch and bycatch mortality, establishing a time/area closure off the coast of North Carolina, removing the deepwater/other sharks from the management unit, establishing a mechanism for changing species on the prohibited species list, updating essential fish habitat identifications for five species of sharks, and changing the administration for issuing permits for display purposes. Several management issues, such as the LCS trip limit, were not addressed in Amendment 1 to the HMS FMP and may be addressed in Amendment 2 to the HMS FMP.

2.4.2 Description of the Atlantic Shark Fisheries

The Atlantic commercial shark fisheries primarily use bottom longline, pelagic longline, and gillnet gears. The primary target species in the fisheries are sandbar and blacktip sharks, although many other shark species are caught as well. In October 2003, 251 vessels were permitted to directly fish for sharks and another 359 vessels had incidental shark permits.

Recreational fishing for Atlantic sharks takes place from New England to the Caribbean Sea and is increasing in popularity due to the accessible nature of the resources. Sharks can be caught virtually anywhere in salt water, from the surf to offshore areas. Charter vessel fishing for sharks is also becoming increasingly popular. Currently the regulations state that one shark (from the list of non-prohibited species) with a minimum fork length of 54 inches may be kept per vessel per trip, in addition to one sharpnose (no minimum size) and one bonnethead shark (no minimum size) per person per trip. Current information on recreational and commercial Atlantic shark landings is provided in Amendment 1 and the 2003 and 2004 SAFE reports.

2.4.3 Opportunities for Amendment 2

Management initiatives or changes for Atlantic sharks that are under consideration for Amendment 2 include, but are not limited to: reducing bycatch in the directed shark gillnet fishery, revising the LCS trip limit for directed permit holders, methods for reducing finetooth shark fishing mortality, and revising quotas for pelagic sharks based on an upcoming ICCAT assessment for these species.

2.5 Billfish

2.5.1 Management History

The Atlantic billfish complex includes Atlantic blue marlin (*Makaira nigricans*), Atlantic white marlin (*Tetrapturus albidus*), west Atlantic sailfish (*Istiophorus platypterus*), and longbill spearfish (*Tetrapturus pfluegeri*). Billfish present unique challenges for fisheries management in the United States due to their distributional and behavioral patterns. Atlantic billfish management strategies are guided by international and national mechanisms. International management is required because Atlantic billfish are widely distributed throughout the Atlantic as well as the U.S. Exclusive Economic Zone (EEZ). Atlantic billfish have historically been landed as the incidental catch of foreign and domestic commercial pelagic longline vessels, or in

directed recreational and subsistence handline fisheries. On the national level, revisions to the Magnuson-Stevens Act in 1996 prompted NOAA Fisheries to initiate rebuilding schemes for overfished stocks of Atlantic blue marlin, Atlantic white marlin, and west Atlantic sailfish. Atlantic billfish are currently managed under Amendment 1 to the 1999 Atlantic Billfish FMP under the authority of the Magnuson-Stevens Act and ATCA.

In 1997, ICCAT made its first binding recommendation for Atlantic blue and white marlin, requiring reductions in landings and noting the need for improvements in data and monitoring. The United States sponsored a resolution at the 1998 ICCAT meeting resulting in a recommendation that the SCRS develop stock recovery scenarios following stock assessments for Atlantic blue marlin and Atlantic white marlin in 2000 and 2002, respectively. In November 2000, ICCAT adopted a two-phased marlin rebuilding program. Phase I of the plan required, among other things, that countries reduce landings of white marlin from pelagic longline and purse seine fisheries by 67 percent and blue marlin landings by 50 percent from 1999 levels; the United States had previously prohibited commercial retention of billfish in the 1988 Atlantic Billfish FMP. For its recreational fishery, the United States agreed to limit annual landings to 250 Atlantic blue and white marlin, combined, annually through 2005. In addition, over the past decade, marlin bycatch has been reduced as a result of drastic reductions in ICCAT's commercial north Atlantic swordfish quotas.

The 1999 Billfish FMP Amendment 1 included measures to: address overfished populations of Atlantic blue and white marlin, reduce bycatch and discard mortality of billfish, comply with 1997 ICCAT recommendations to reduce landings, improve monitoring and data collection, and determine the status of sailfish and spearfish populations. The current size limits (Atlantic blue marlin, 99 inches (251 cm) lower jaw fork length (LJFL); Atlantic white marlin, 66 inches (168 cm) LJFL; west Atlantic sailfish, 63 inches (160 cm) LJFL) are intended to provide an increase in reproductive potential and thus lead to a long-term benefit for the Atlantic-wide stock. To facilitate compliance with the ICCAT rebuilding plan, NOAA Fisheries implemented regulations effective March 2003, requiring (1) an Atlantic HMS recreational angling permit, (2) mandatory self-reporting of all non-tournament landings of billfish, and (3) reporting of tournament landings be reported via the Recreational Billfish Survey.

Additionally, it is illegal to sell Atlantic billfish. This prohibition on sale precludes the possession of Atlantic billfish by commercial fishermen, seafood dealers, and restaurants with the intent to sell. While billfish are still caught incidental to commercial fishing operations, this measure has precluded any directed fishing effort on these species which supports rebuilding.

On September 4, 2001, NOAA Fisheries received a petition to list the Atlantic white marlin as endangered or threatened throughout its range, and to designate critical habitat under the Endangered Species Act (ESA). After reviewing the best scientific and commercial information available, considering public comment, and reviewing the effects of current conservation efforts, on September 3, 2002, NOAA Fisheries determined that listing Atlantic white marlin as either threatened or endangered under the ESA is not warranted at this time. Instead, Atlantic white marlin was added to the "species of concern" list and NOAA Fisheries will reevaluate the need

for ESA protection of Atlantic white marlin in 2007.

2.5.2 Description of Billfish Fisheries

NOAA Fisheries authorizes only recreational anglers to target and harvest Atlantic billfish. Billfish caught in the Atlantic pelagic longline and shark fisheries cannot be retained and are considered bycatch. Post-release survival rates are identified as a critical data need for Atlantic billfish management. Atlantic blue marlin and white marlin seasons generally begin in May, although tournaments in warmer-water areas (e.g., Bahamas) start in March. Marlins move up along the coast of the United States as waters warm during the summer, with relatively more white marlin traveling farther north to be caught off mid-Atlantic and southern New England during July to September. The Atlantic marlin season generally ends by October for the continental United States, but fish are still caught past October in the warm Caribbean waters off Puerto Rico and the U.S. Virgin Islands.

Currently, minimum size limits (lower jaw fork length) of 99 inches, 66 inches, and 63 inches are in place for blue marlin, white marlin, and sailfish, respectively, with a ban on harvest of longbill spearfish. All tournament and non-tournament landings must be reported and, under an ICCAT recommendation, up to 250 blue and white marlin (combined) may be harvested annually in the United States.

2.5.3 Opportunities for Amendment 2

NOAA Fisheries issued a proposed rule on September 17, 2003 to address ICCAT's recommended annual 250 marlin limit (68 FR 54410). In addition to that rulemaking, Amendment 2 may address additional measures to reduce mortality, improve data collection, and prevent further overfishing of billfish, including: use of circle hooks, time/area closures, tournament-only landings, prohibiting white marlin landings, body tags, and specified marlin seasons. Other management issues related to billfish that could be address in Amendment 2 include: non-tournament reporting of billfish, billfish certificate of eligibility forms, billfish tournament formats, and defining an artisanal fishery with regards to billfish.

2.6 Status of Stocks

The methods used to determine the status of HMS are fully described in Chapter 3 of the HMS FMP and Billfish Amendment 1. In summary, a species is considered overfished when the current biomass (B) is less than the minimum stock size threshold. The minimum stock size threshold is determined based on the natural mortality of the stock and the biomass at Maximum Sustainable Yield (B_{MSY}). The MSY is the maximum long-term average yield that can be produced by a stock on a continuing basis. Overfishing is occurring on a species if the current fishing mortality (F) is greater than the fishing mortality at MSY (F_{MSY}). When one or both of these measures occur, a species is declared overfished and a rebuilding plan is needed within one year. A species is considered rebuilt when B is greater than B_{MSY} and F is less than F_{MSY}. A species is considered healthy when B is equal to the biomass at optimum yield (B_{OY}) and F is

equal to the fishing mortality at optimum yield (F_{OY}).

Stock assessments for Atlantic tunas, swordfish, and billfish are conducted by ICCAT's Standing Committee for Research and Statistics (SCRS). Stock assessments for Atlantic sharks has traditionally been done by NOAA Fisheries; however, in 2004, ICCAT's SCRS is conducting a stock assessment on some species of pelagic sharks that are caught throughout the Atlantic basin. Table 2.1 presents data on the current status of HMS species that are extracted from the 2004 SAFE report and Amendment 1 to the HMS FMP respectively. For further information on status of stocks and landings, please see the SAFE reports for 2003 and 2004 and Amendment 1 to the HMS FMP.

Table 2.1 **Stock Assessment Summary Table**. *South Atlantic swordfish, south Atlantic albacore, and East Atlantic bluefin tuna are not found in the U.S. EEZ.

Species	Current Relative Biomass Level	Minimum Stock Size Threshold	Current Fishing Mortality Rate	Maximum Fishing Mortality Threshold	Outlook
North Atlantic Swordfish	B_{02}/B_{MSY} = 0.94 (0.75-1.24)	$0.8B_{MSY}$	F_{01}/F_{MSY} = 0.75 (0.54-1.06)	F_{year}/F_{MSY} = 1.00	Overfished; overfishing is not occurring, stock is in recovery
South Atlantic Swordfish	*Not estimated*	$0.8B_{MSY}$	*Not estimated*	F_{year}/F_{MSY} = 1.00	Fully fished; Overfishing may be occurring.*
West Atlantic Bluefin Tuna	SSB_{01}/SSB_{MSY}= 0.31 (low recruitment); 0.06 (high recruitment) SSB_{01}/SSB_{75} = 0.13 (low recruitment); 0.13 (high recruitment)	$0.86SSB_{MSY}$	F_{01}/F_{MSY} = 2.35 (low recruitment scenario) F_{01}/F_{MSY} = 4.64 (high recruitment scenario)	$_{Fyear}/F_{MSY}$ = 1.00	Overfished; overfishing is occurring.
East Atlantic Bluefin Tuna	SSB_{00}/SSB_{70} = 0.80	*Not estimated*	F_{00}/F_{max} = 2.4	*Not estimated*	Overfished; overfishing is occurring.*
Atlantic Bigeye Tuna	B_{02}/B_{MSY} = 0.81-0.91	$0.6B_{MSY}$ *(age 2+)*	F_{01}/F_{MSY} = 1.15	$_{Fyear}/F_{MSY}$ = 1.00	May be overfished; overfishing is occurring.
Atlantic Yellowfin Tuna	B_{01}/B_{MSY} = 0.73 - 1.10	$0.5B_{MSY}$ *(age 2+)*	F_{01}/F_{MSY} = .87-1.46	$_{Fyear}/F_{MSY}$ = 1.00	Not overfished; overfishing may be occurring.
North Atlantic Albacore Tuna	B_{92}/B_{MSY} = 0.68 (0.52-0.86)	$0.7B_{MSY}$	F_{02}/F_{MSY} = 1.10 (0.99 - 1.30)	$_{Fyear}/F_{MSY}$ = 1.00	Overfished; overfishing is occurring.

Species	Current Relative Biomass Level	Minimum Stock Size Threshold	Current Fishing Mortality Rate	Maximum Fishing Mortality Threshold	Outlook
South Atlantic Albacore Tuna	B_{02}/B_{MSY} = 1.66 (0.74-1.81)	*Not estimated*	F_{02}/F_{MSY} = 0.62 (0.46-1.48)	*Not estimated*	Not overfished; overfishing not occurring.*
West Atlantic Skipjack Tuna	*Unknown*	*Unknown*	*Unknown*	$_{Fyear}/F_{MSY}$ = 1.00	Unknown
Atlantic Blue Marlin	B_{00}/B_{MSY} = 0.4 (0.25 - 0.6)	$0.9B_{MSY}$	F_{99}/F_{MSY} = 4.0 (2.5 - 6.0)	$_{Fyear}/F_{MSY}$ = 1.00	Overfished; overfishing is occurring.
Atlantic White Marlin	B_{01}/B_{MSY} = 0.12 (0.06-0.25)	$0.85B_{MSY}$	F_{00}/F_{MSY} =8.28 (4.5-15.8)	$_{Fyear}/F_{MSY}$ = 1.00	Overfished; overfishing is occurring.
West Atlantic Sailfish	*Not estimated*	$0.75B_{MSY}$	*Not estimated*	$_{Fyear}/F_{MSY}$ = 1.00	Overfished; overfishing is occurring.
Large Coastal Sharks (SPM)	N_{01}/N_{MSY} = 0.46-1.18	$(1\text{-}M)B_{MSY}$ *or* $0.5B_{MSY}$	F_{01}/F_{MSY} = .89-4.48	$_{Fyear}/F_{MSY}$ = 1.00	Overfished; overfishing is occurring
Sandbar Sharks (SPM)	N_{01}/N_{MSY} = 0.77 - 2.22	$(1\text{-}M)B_{MSY}$ *or* $0.5B_{MSY}$	F_{01}/F_{MSY} = 1.08-1.68	$_{Fyear}/F_{MSY}$ = 1.00	Not overfished - still rebuilding; overfishing is occurring
Blacktip Sharks (SPM)	N_{01}/N_{MSY} = 1.20 - 1.45	$(1\text{-}M)B_{MSY}$ *or* $0.5B_{MSY}$	F_{01}/F_{MSY} = 0.42 - 0.82	$_{Fyear}/F_{MSY}$ = 1.00	Not overfished; overfishing is not occurring
Small Coastal Sharks	B_{01}/B_{MSY} = 1.38-2.39	$(1\text{-}M)B_{MSY}$ *or* $0.5B_{MSY}$	F_{00}/F_{MSY} = 0.24 - 0.78	$_{Fyear}/F_{MSY}$ = 1.00	Not overfished; overfishing is not occurring
Pelagic Sharks	*Unknown*	*Unknown*	*Unknown*	*Unknown*	*Unknown*

3.0 ISSUES AND OPTIONS: ATLANTIC TUNAS

3.1 Development of a Rebuilding Plan for Northern Albacore Tuna

Description of the Issue
According to the most recent SCRS stock assessment, northern Albacore tuna is overfished, and overfishing is occurring. Based on SCRS advice, ICCAT adopted a recommendation in 1998 to limit fishing capacity on this species by limiting the number of vessels directly fishing for it, in order to maintain fishing mortality at or below the 1998 level. ICCAT established a TAC of 34,500 mt ww in 2003 for the following three years (2004 through 2006) to further conservation efforts. Under this recommendation, annual U.S. catches are limited to 607 mt ww. U.S. catches for 2001 and 2002 were 322 mt ww and 497 mt ww, respectively.

Options Available for Consideration
1. No rebuilding plan (Status quo)
2. Actively encourage ICCAT to develop and implement an international rebuilding plan (similar to what was done for swordfish and BFT in the past)
3. Other

3.2 General Category Atlantic Bluefin Tuna Quotas

Description of the Issue
General category time-period subquotas consist of dividing the General category quota into a number of subquotas that are intended to affect where and when BFT are caught for a variety of objectives. General category subquota allocations were established in the HMS FMP to address concerns regarding allocation of fishing opportunities, to assist with distribution and achievement of optimum yield, and to improve market conditions. Additionally, General category catch-per-unit-effort (CPUE) information is used in stock assessments, so lengthening the season is important for scientific data collection purposes. Since the development of the HMS FMP in 1999, the fishery has experienced some changes in fishery patterns and needs, thus, NOAA Fisheries is considering options for adjusting the existing quotas.

In the final rule implementing the HMS FMP (64 FR 26060, May 28, 1999), the General category quota was divided into three time-period subquotas. These time-period subquotas were based upon historical landing patterns and divided as follows: 60 percent in June through August, 30 percent for September, and 10 percent in October through December. During the development of the HMS FMP, a General category BFT fishery in the southern Atlantic region began to emerge. This issue was discussed extensively by the HMS AP and the public, although no consensus was ever reached. Over the last couple of years, NOAA Fisheries has performed a number of inseason quota transfers of BFT, consistent with the transfer criteria established in the HMS FMP, which has allowed the General category BFT fishery to extend into the winter months. In 2002, NOAA Fisheries received a Petition for Rulemaking (Petition) submitted by the North Carolina Division of Marine Fisheries requesting the agency to formalize this winter fishery and extend fishing opportunities into January. NOAA Fisheries published a Notice of

Receipt of Petition on November 18, 2002 (67 FR 69502).

In part, to address some of the concerns raised in the Petition, as well as to increase fishing opportunities and optimum yield for the fishery overall, NOAA Fisheries extended the General category end date from December 31 to January 31 (68 FR 74504, December 24, 2003). This effectively altered the third time-period from October through December to October through January. The quota allocated to this time-period subquota remains at 10 percent of the overall General category quota. NOAA Fisheries is now considering adjusting the time-periods and their subquota allocations to enhance achievement of the HMS FMP objectives referred to above.

Options Available for Consideration

1. Maintain 60 percent June through August, 30 percent for September, 10 percent for October through January (Status quo)
2. Adjust the time periods on a bimonthly basis: June through July, August through September, October through November, and December through January
3. Adjust the time periods on a monthly basis: June, July, August, September, October, November, December, and January
4. Eliminate any time-period subquotas
5. For options 2 and 3 above, adjust the subquota allocation percentages accordingly (e.g., 40 percent for June through July, 30 percent for August through September, 20 percent for October through November, 10 percent for December through January)
6. Other

3.3 Allow Filleting of Atlantic Tunas at Sea by a Limited Number of Vessels

Description of the Issue

Under current regulations at 50 CFR 635.30(a), persons who own or operate a fishing vessel that possesses an Atlantic tuna in the Atlantic Ocean or that lands an Atlantic tuna in an Atlantic coastal port must maintain such Atlantic tuna through offloading either in round form or eviscerated with the head and fins removed, provided that one pectoral fin and the tail remain attached. Eviscerated is defined as a fish that has only the alimentary organs removed. The regulations are intended to aid in enforcing the minimum size limit, retention limits, and species identification.

Over the past few years the HMS Charter/Headboat industry, more specifically the headboat sector, has requested that it be exempt from the current regulations and allowed to fillet Atlantic tunas at sea. Industry representatives claim that headboats are adversely impacted by the current regulations in a number of ways. Specifically, because headboats can carry upwards of 40 passengers and because hold capacity on a headboat is limited, the inability to fillet at sea can adversely impact the quality of the fish that is retained (because it cannot be stored properly). Additionally, once a headboat returns to port, crew members may be working under tight timeframes to leave port and embark on another trip and may not have time to fillet tuna for paying passengers. Allowing processing of the catch while the vessel is steaming back to port

may allow crew to leave the vessel, passengers to go home, or the vessel to conduct a subsequent trip immediately upon returning to port.

Although filleting at sea may have several economic and social advantages for the industry as set forth above, waiving the current regulations could render enforcement of size limits, retention limits, and species identification difficult.

Options Available for Consideration

1. Maintain current filleting regulations (Status quo)
2. Allow some form of filleting of Atlantic tunas at sea (for certain permitted vessels, i.e., headboats)
3. Establish a pilot program to gather additional data on this issue
4. Issue a unique filleting permit to a limited universe of vessels
5. Other

3.4 Revisions to Commercial Atlantic BFT Dealer Reporting

Description of the Issue

Monitoring of the commercial BFT fishery is conducted primarily through the dealer reporting system, which includes three forms: the landing reports, summary reports, and a Bluefin Statistical Document (BSD). A Federal Tuna Dealer permit (issued by the NOAA Fisheries Northeast Regional Office) is required for the commercial receipt of all Atlantic tuna, whether directly from a licensed fishing vessel or exported or imported into the United States. Licensed dealers are required to record each purchase of an Atlantic BFT from a U.S. fishing vessel on a landing report and provide the information to NOAA Fisheries within 24 hours of the purchase or receipt of the fish. The landing reports, which are used to monitor the BFT quota, include the following information: dealer number, dealer name, date the fish was landed, harvest gear, fork length, weight (whole or dressed), identification tag number, area where fish was caught, port where landed, Atlantic tuna permit number, vessel name, and the name and dated signature of the vessel's master. In 1998, NOAA Fisheries began using a FAX/Optical Character Recognition (OCR) system for BFT landing reports in order to facilitate data entry and quota monitoring.

BFT dealers are also required to submit summary reports to NOAA Fisheries on a biweekly basis, which provide additional economic data including the destination of the fish, nature of the sale (dockside or consignment), price per pound, and quality rating (optional), and are used for quality control of the individual landing reports submitted via the Fax OCR. These reports are required to be mailed and include many similar data fields to those already provided by the dealer in the quota monitoring landing report mentioned above (i.e. dealer name and number, individual bluefin weights and tag numbers, vessel permit number, date of landing, etc).

Finally, all BFT (Atlantic and Pacific) imported to, or exported from, the United States must be accompanied by a BSD in order to meet the requirements of ICCAT's BSD Program. The purpose of the BSD is to track BFT trade as a means to improve the reliability of statistical

information on BFT landings, since a considerable number of vessels fishing for BFT are registered to non-member nations and not all nations fully report their landings to ICCAT. Several of the data fields required to be completed for exports on the BSD are similar to those already completed by a dealer on the summary reports and landing reports. Data from completed BSDs are then hand entered by NOAA Fisheries staff and cross-checked with summary reports and Customs and Border Protection (previously Customs) databases for quality control.

The FAX OCR system for quota monitoring significantly increased efficiency and productivity since its creation in 1999, but the software and hardware requirements for this system are now over five years old, and require increasing amounts of maintenance and upgrades. In addition the three reports that are potentially required to be submitted by a dealer (landing report, summary report, and a BSD for an exported BFT) contain many similar requests for information requiring dealers to re-enter the same data on three different forms. Finally, after a dealer has completed the necessary forms manually on paper, and mailed or faxed the forms to the Agency, the forms then may need to be re-entered manually by agency staff into computer databases.

Below are several options that consider using recently available modern technology to further streamline commercial BFT dealer reporting requirements, and reduce reporting burdens on the agency and the public. These options also relate to the reporting measures outlined in Section 9 of this document and to trade monitoring measures included in a proposed rule that published on March 29, 2004 (69 FR 16211).

Options Available for Consideration

1. Maintain the three forms in current manual paper format (Status quo)
2. Develop within the agency a new internet, Web based system that facilitates electronic reporting (ER) for the submission of summary reports. (i.e. see recent proposed rule from NOAA Fisheries NERO office (69 FR 2870, January 21, 2004)
3. Contract externally to the agency for an ER system (i.e. revise the Vessel Permit System currently under contract with Aquilent)
4. Develop a simplified Interactive Voice Response (IVR) phone system or Web system for quota monitoring (External or In-House)
5. Develop an internet web based system for the printing and submission of BSDs
6. Develop an ER system for quota monitoring and summary reports only
7. Develop a comprehensive ER system (External or In-House) that integrates all three reporting requirements (quota monitoring, summary report, BSD)
8. Other

4.0 ISSUES AND OPTIONS: ATLANTIC SWORDFISH

4.1 Recreational Bag Limit In-season Adjustment Authority

Description of the Issue
In 2002, the HMS AP noted that the recreational swordfish fishery had grown significantly in recent years and recommended management measures to prevent its uncontrolled growth. Accordingly, NOAA Fisheries published a final rule on January 7, 2003 (68 FR 711), establishing a recreational swordfish retention limit of one fish per person, up to three per vessel per day. Regardless of the length of the trip, no more than the daily limit of swordfish is to be possessed on board a vessel. This rule became effective on March 2, 2003.

Due to the current underharvest of the swordfish quota and the increasing number of participants in the recreational swordfish fishery, some anglers have expressed the concern that the bag limit is too low. Other anglers have stated that they do not need a bag limit, particularly since the commercial quota is not caught. Thus, NOAA Fisheries is interested in examining the feasibility of a regulatory action to establish in-season adjustment authority to modify the recreational swordfish retention limit, based upon an in-season review of biological, social, economic, and other data.

Options Available for Consideration
1. No in-season adjustment authority (Status quo)
2. Establish in-season adjustment authority to modify the recreational North Atlantic swordfish retention limit based upon a review of recreational landings, availability of the species on the fishing grounds, and any other relevant factors, including, but not limited to biological, social, economic, or other management considerations
3. Other

4.2 Increase Recreational Bag Limit for Charter/headboats

Description of the Issue
As described above, in March 2003, NOAA Fisheries established a recreational swordfish retention limit. Since that time, charter/headboat permit holders have expressed concern that, while the limit may be appropriate for individual anglers, the three-fish limit can be a constraint on booking multi-day trips, or trips with several anglers onboard. Thus, NOAA Fisheries is interested in examining the possibility of adjusting the recreational bag limit for charter/headboats.

Options Available for Consideration
1. One swordfish per person, up to three per vessel (Status quo)
2. One swordfish per paying passenger per trip
3. One swordfish per paying passenger per day
4. Maintain current limit for charterboats and establish a higher limit for paying passengers on a headboat

5. Other

5.0 ISSUES AND OPTIONS: ATLANTIC SHARKS

5.1 Category Allocations (e.g., Directed, Incidental, Reserve)

Description of the Issue
During the development of Amendment 1 to the HMS FMP, several commenters indicated interest in revising current allocation categories for the Atlantic shark fishery. Specifically, commenters suggested an incidental quota to reduce regulatory discards in the fishery particularly when the directed fishery is closed. Commenters also indicated interest in a reserve quota for saving under-harvests over time and preventing over-harvests.

Options Available for Consideration
1. One quota for each species group in the entire commercial fishery (Status quo)
2. Separate quota allocations for directed and incidental permit holders
3. Creation of reserve quota category
4. Other

5.2 Large Coastal Shark Trip Limit for Directed Permit Holders

Description of the Issue
In 1994, in order to lengthen the fishing season for large coastal sharks and to reduce the derby fishery, NOAA Fisheries implemented a 4,000 lb trip limit on large coastal sharks (LCS). This trip limit was maintained for directed shark permit holders after implementation of the limited access program in 1999. Incidental shark permit holders have a lower trip limit (see section 14.2). Fishermen have commented that the trip limit is unnecessary because upgrading restrictions prevent large vessels from re-entering the fleet and that, because fishermen do not weigh sharks until they reach the docks, some latitude of the trip limit is needed. Additionally, some fishermen note that they often exceed the trip limit on one set and need to cut their gear and return to it later, which can reduce safety at sea and increase bycatch. NOAA Fisheries examined the LCS trip limit issue during scoping for Amendment 1 to the HMS FMP but decided to wait until the issue could be examined with possible adjustments to the limited access program, including upgrading restrictions and the incidental trip limits (see Section 14.0). Thus, the options listed below include some options that were raised during the scoping process for Amendment 1 to the HMS FMP.

Options Available for Consideration
1. Maintain the current LCS trip limit (Status quo)
2. Implement trip limits for all or some species/species groups of sharks
3. Reduce the trip limit
4. Increase the trip limit
5. Limit the length of the gear, not the amount of fish that can be kept
6. Provide for a tolerance of 10 percent for overages in the trip limit
7. If the trip limit is exceeded, penalize vessels by prohibiting fishing the next day
8. Lower trip limit as needed to extend the season

9. Eliminate the trip limit
10. Other

5.3 Reduce Bycatch in Gillnet Fishery

Description of the Issue
In Amendment 1 to the HMS FMP, NOAA Fisheries analyzed several alternatives for reducing bycatch of protected species in the shark gillnet fishery, including closing the shark gillnet fishery permanently and requiring vessels operating in the shark gillnet fishery to set gear using the strikenet method only. These alternatives were not preferred, in part because the shark gillnet fishery catches relatively few sea turtles and interactions with other protected species are rare. However, many commenters requested consideration of gear modifications in order to reduce bycatch of protected resources and non-target species. For example, fishermen have noted that gear modifications, such as floating the net higher in the water by using less weight and decreasing the net mesh size, may reduce interactions with protected resources.

Options Available for Consideration
1. Maintain current gear descriptions (Status quo)
2. Modify the depth of the net
3. Modify the net mesh size
4. Modify the overall length of the net
5. Modify the duration or manner in which the gear is deployed
6. Buy out
7. Prohibit gear
8. Experimental fishery
9. Pingers
10. Other

5.4 Actions to Reduce Finetooth Shark Fishing Mortality

Description of the Issue
The 2002 stock assessment for finetooth sharks found that finetooth sharks are experiencing overfishing. According to the stock assessment, finetooth sharks are caught primarily in the south Atlantic region and mostly with gillnets (80 percent of landings) and longlines (20 percent of landings). Most of these landings appear to be incidental to non-HMS fisheries, not from fishermen targeting small coastal sharks. NOAA Fisheries is working on identifying the fisheries that land finetooth sharks.

Options Available for Consideration
1. Maintain current regulations (Status quo)
2. Consider adding finetooth sharks to the prohibited species list, per the criteria established in Amendment 1 to the HMS FMP
3. Establish a commercial trip limit or recreational bag limit for finetooth sharks
4. Work with the appropriate Fishery Management Councils and States to reduce takes of

finetooth sharks
5. Reduce the small coastal shark quota
6. Other

5.5 Commercial Pelagic Shark Quotas

Description of the Issue

Pelagic sharks are subject to exploitation by many different nations and exhibit trans-oceanic migration patterns. As a result, the SCRS Subcommittee on Bycatch has recommended that ICCAT conduct a stock assessment for some species of pelagic sharks. This assessment is scheduled for June 2004 and will place an emphasis on blue and shortfin mako sharks.

Currently, the 1999 HMS FMP has established species-specific quotas for pelagic sharks, including porbeagle (92 mt dw), blue (273 mt dw), and all other pelagic sharks (488 mt dw), in order to limit expansion in the fishery, pending additional scientific assessment. The international assessment scheduled for June 2004 may provide additional information to suggest that changes are necessary to these existing quotas.

Options Available for Consideration

1. Quota basis from 1999 FMP (Status quo): This option would implement commercial quotas based upon historical landings of pelagic sharks and existing stock status information
2. Consider MSY level calculated in the ICCAT June 2004 Atlantic pelagic shark assessment in developing commercial quotas. This follows the same approach used to calculate LCS and SCS commercial quotas
3. Consider other information from the June 2004 Atlantic pelagic shark assessment when establishing quota
4. Combine all pelagic sharks back into one quota based on recent catches
5. Other

6.0 ISSUES AND OPTIONS: ATLANTIC BILLFISH

6.1 Additional Measures to Reduce Billfish Mortality

Description of the Issue

According to the 2000 stock assessment for Atlantic blue marlin, the total Atlantic stock is approximately 40 percent of B_{msy}, the current fishing mortality rate is approximately four times higher than F_{msy}, and overfishing has taken place in the last 10-15 years. The SCRS recommended that ICCAT take additional steps to reduce the catch of blue marlin as much as possible

An assessment of Atlantic white marlin was conducted in May 2002. Results from the 2002 assessment indicate a MSY of 964 mt (849-1070 mt), a relative biomass (B_{2001}/B_{msy}) of 0.12 (0.06 - 0.25) and a relative fishing mortality rate (F_{2000}/F_{msy}) of 8.28 (4.5 - 15.8). Given that the stock is severely depressed, the SCRS concluded that ICCAT should take steps to reduce the catch of white marlin as much as possible.

For all marlins, the SCRS suggested that substantial investments in research on the habitat requirements of marlins, as well as the verification of historical catch data, are needed to reduce uncertainties in these assessments. In order to address the continued overfishing of Atlantic blue and white marlin and the suggestions from SCRS, NOAA Fisheries is considering additional measures to reduce billfish mortality including the use of circle hooks, time/area closures, and additional landings restrictions.

Options Available for Consideration

Circle Hooks

1. No management measure (Status quo)
2. Require the use of circle hooks in all recreational HMS hook and line fisheries
3. Require the use of circle hooks on vessels with HMS Charter Headboat or Angling Category permits on for hire trips
4. Require the use of circle hooks in all registered billfish tournaments
5. Require the use of circle hooks in all registered HMS tournaments
6. Other

Recreational Billfish Fishing Time/area Closures

1. No management measure (Status quo)
2. Close essential fish habitat (EFH) areas
3. Close habitat areas of particular concern (HAPCs)
4. Close known spawning areas
5. Explore “international closures” to protect billfish
5. Other

Landing Limitations

1. Maintain current landing limitations (Status quo)
2. Catch and release only
3. Tournament-only landings
4. Prohibit white marlin landings
5. Create marlin fishing seasons
6. Increase minimum sizes
7. Require body tags
8. Other

6.2 Non-Tournament Reporting

Description of the Issue

To improve upon non-tournament recreational landings data, in March 2003, NOAA Fisheries implemented a requirement for the reporting of all recreational non-tournament landings of Atlantic swordfish and billfish (blue marlin, white marlin, and sailfish) within 24 hours of being landed. The non-tournament landings call-in system allows anglers to report their landings by leaving specific information (caller's name, HMS permit number, a telephone contact number, species caught, and size) on the HMS automated information line. NOAA Fisheries retrieves these messages daily and contacts and provides each caller with a confirmation number specific to each fish landed.

NOAA Fisheries is interested in reducing the burden on the public with regard to this reporting responsibility as well as increasing compliance with this requirement.

Options Available for Consideration

1. Maintain current reporting requirement (Status quo)
2. Online/internet-based reporting system
3. Landing cards
4. Other

6.3 Billfish Certificate of Eligibility Form

Description of the Issue

Currently, a Billfish Certificate of Eligibility (COE) is required for all first receivers of Pacific and South Atlantic billfish for the domestic trade of fresh or frozen billfish shipments. The purpose of the collection of this information is to maintain the nature of the Atlantic billfish fishery as a recreational resource with no commercial trade, as designated in the Atlantic Billfish FMP. The COE augments NOAA Fisheries' ability to quantify all billfish that enter into the commerce of the United States and to establish that these fish were not harvested in or from the Atlantic billfish management unit. The required COE document provides information on the vessel that caught the billfish and contains a declaration from the dealer or processor that the accompanying billfish was not harvested from the Atlantic Ocean management unit. A dealer or

processor who subsequently receives or possesses billfish covered by an original document is only required to complete the Dealer's/Processor's Declaration, and retain a copy of the COE while processing the billfish.

Currently, dealers and processors do not have to provide the required Billfish COE information on a specific form, although NOAA Fisheries provides, on the Internet or upon request, a standard form to facilitate the data collection. Also, NOAA Fisheries does not collect the information upon final disposition of the billfish. In Amendment 2, NOAA Fisheries is considering requiring the use of a standard form and/or submission of the form to NOAA Fisheries upon final disposition of the billfish. The purpose would be to standardize reporting requirements, improve compliance, facilitate enforcement, and gather additional information on Pacific and South Atlantic billfish shipments.

Options Available for Consideration

1. No management measures (Status quo)
2. Require use of a standard Billfish COE form and submission of the form to NOAA Fisheries upon final disposition of the billfish
3. Require use of a standard Billfish COE form only
4. Require submission of information from Billfish COE to NOAA Fisheries upon final disposition billfish only
5. Require billfish importers/exporters to obtain the HMS International Trade Permit (ITP)
6. Other

6.4 Artisanal Fishery

Description of the Issue

The United States initiated efforts to reduce mortality of Atlantic billfish in 1988 through implementation of the Atlantic Billfish FMP. Among other measures, the Billfish FMP prohibited the sale or purchase of Atlantic billfish. However, the Billfish FMP recognized the existence of a traditional, artisanal handline fishery in Puerto Rico that had a small bycatch of billfishes, mainly blue marlin. To accommodate this small-scale Puerto Rican artisanal fishery, the FMP contained an exemption from the "no sale" provision, provided that certain conditions were met. These conditions included: (1) a requirement that only fish caught on handlines having fewer than six hooks could be retained for sale; (2) a vessel retaining billfish for sale could not have a rod and reel onboard; (3) a maximum of 100 billfish per year could be landed and sold; (4) fish could only be sold in Puerto Rico; (5) all existing handline fishermen wishing to sell billfish would be required to obtain a permit; (6) the Caribbean Fishery Management Council, in cooperation with the Government of Puerto Rico, would develop and implement a system for tracking billfish landings under the exemption; (7) all billfish landed under the exemption would require proper documentation including the permit number of the exempted fisherman; (8) if more than 100 billfish per year were landed under the exemption the Councils would consider removing the exemption; and, (9) the exemption would not be in effect until the permitting and tracking systems were operative, pending approval by the (then) five involved Councils.

This exemption from the "no sale" provision for the Puerto Rican handline artisanal fishery was never implemented in Federal regulations, likely because the aformentioned conditions were never met or because billfish management was transferred to the Secretary. For Amendment 2, NOAA Fisheries is re-examining the need and possible conditions for a Puerto Rican handline exemption.

Options Available for Consideration

1. No management measures (Status quo)
2. Implement an exemption for artisanal landings/sales of Atlantic billfish in Puerto Rico using the same conditions as those outlined in the original Billfish FMP
3. Implement an exemption for artisanal landings/sales of Atlantic billfish in Puerto Rico using different conditions from those outlined in the original Billfish FMP
4. Other

7.0 ISSUES AND OPTIONS: HMS TOURNAMENTS

7.1 Registration & Reporting

Description of the Issue
In 1999, NOAA Fisheries implemented mandatory registration for all Atlantic HMS fishing tournaments and mandatory reporting for tournaments that are selected for reporting. The number of registered tournaments has ranged from 83 in 2002 to 254 in 2003. Tournament data provide an important source of information used to assess HMS fish stocks and to aid in estimating the annual catch of Atlantic HMS. Tournaments of extended duration can increase difficulty in obtaining accurate catch statistics by delaying the submission of data to NOAA Fisheries. Additional registration, permitting, or reporting requirements, such as the provision of key economic data may bolster the ability of NOAA Fisheries to more accurately monitor, manage and gauge the biological and socio-economic impacts of regulations proposed in the future, and enhance current enforcement efforts.

Options Available for Consideration

Registration

1. Maintain existing requirements (Status quo)
2. Require an HMS tournament permit
3. Other

Reporting

1. Require selected tournaments to report catches (Status quo)
2. Require 100 percent of tournaments to report catches
3. Periodic reporting requirement for tournaments of extended duration (e.g. quarterly reports)
4. Mandatory reporting of economic data from all or selected tournaments (see Section 9.5)
4. Other

7.2 Tournament Format

Description of the Issue
Fishing tournaments for HMS generate millions of dollars for state and local economies on an annual basis, provide a reliable source of recreational catch and effort data for use in fishery assessments, and simultaneously constitute a large source of recreational billfish landings. Atlantic blue and white marlin are considered overfished, with overfishing occurring. Additionally, at ICCAT, the United States agreed to limit its recreational landings to 250 blue and white marlin, combined on an annual basis, through 2005. In 2003, the United States exceeded its annual marlin landing limit by 29 fish, with a large proportion of aggregate Atlantic marlin landings coming from tournaments. Restrictions on tournament format could reduce or,

at a minimum, prevent increases in mortality for all HMS species, and billfish in particular (also see Section 6.1 for other options to reduce billfish mortality).

Options Available for Consideration

1. Maintain existing requirements (Status quo)
2. Mandatory "catch and release" billfish tournaments only (all billfish species or Atlantic blue and/or white marlin)
3. Prohibit new "kill" billfish and/or other HMS tournaments
4. Mandatory use of circle hooks in all HMS tournaments
5. Mandatory use of circle hooks in all billfish tournaments
6. Other

8.0 ISSUES AND OPTIONS: BYCATCH REDUCTION

8.1 Time/area Closures

Description of the Issue
National Standard 9 of the Magnuson-Stevens Act requires that conservation and management measures minimize bycatch to the extent practicable, and to the extent bycatch cannot be avoided, minimize bycatch mortality. The Magnuson-Stevens Act defines bycatch as fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. The term does not include fish released alive under a recreational catch and release fishery management program.

Bycatch of protected species such as sea turtles, smalltooth sawfish, marine mammals, and non-target finfish such as billfish and prohibited shark species remains a concern in HMS fisheries. Time/area closures have been implemented to address a variety of bycatch issues, including sea turtle bycatch (Northeast Distant closure), BFT discards (Northeastern closure), discard of undersized swordfish, sharks, and other HMS (Charleston Bump, East Florida Coast, DeSoto Canyon, and effective in January 2005, North Carolina) and, marine mammals (Southeast Right Whale Calving area). Amendment 2 will examine the issue of time/area closures comprehensively to assess their effectiveness, and to determine if they are achieving desired management objectives, if modifications to current closures are warranted, and if additional closures may be necessary. Additionally, NOAA Fisheries is considering new time/area closures for HMS fisheries that correspond to those closures proposed in the Gulf of Mexico and Caribbean Council FMP amendments to address concerns related to coral reef areas and bottom longlining.

Options Available for Consideration
1. Maintain current closures and process (Status quo)
2. Develop and improve data collection and monitoring of effectiveness of closures
3. Develop criteria as a basis for modifying or rescinding a closure area
4. Modify current time/area closures based on additional data
5. Time/area closures for all gear types
6. Time/area closure for smalltooth sawfish
7. Time/area closures for other Councils' HAPCs
8. Modify current time/area closures if gear often drifts into closure as a result of currents
9. Place deadline for removal or modification based on review of effectiveness on all existing and new time/area closures
10. Other

8.2 Bycatch Reduction Implementation Plan

Description of the Issue
The 1998 NOAA Fisheries report, "Managing the Nation's Bycatch," contains the agency's national bycatch goal "to implement conservation and management measures for living marine

resources that will minimize, to the extent practicable, bycatch and the mortality of bycatch that cannot be avoided." One of the objectives outlined in the report is to implement the national bycatch goal through regional (including Headquarters for HMS) implementation plans. Each plan will include in part, identification and evaluation of alternatives for reducing the adverse impacts of discards (including at least the reduction or elimination of overfishing of target species, modification of fishing gear and/or fishing practices, time and/or area restrictions on fishing, and factors that determine the likelihood of success using each of the alternatives), and strategies for solving the problems that have not been identified.

An HMS Bycatch Reduction Implementation Plan has been developed and is available on the NOAA Fisheries website. This document is considered to be a working document, with issues and tasks being added and removed as they are identified and addressed. There are four main topics addressed in the document: monitoring, research, management and education/outreach. Each topic contains a number of activities to be conducted to evaluate the extent of bycatch in a fishery or the potential for bycatch reduction. Some of the activities in the HMS Bycatch Reduction Implementation Plan are listed below, while others are addressed in other sections of this document, i.e. time/area restrictions, methods to reduce overcapacity, reporting and recordkeeping.

Items included in the Plan

1. Investigate pilot observer study in the harpoon fishery
2. Increase observer coverage in pelagic longline, bottom longline and shark gillnet fisheries
3. Investigate fishing protocols/gear modifications to reduce bycatch and bycatch mortality in longline, gillnet and handgear fisheries
4. Continue post-release mortality research
5. Increase research on role of apex predators in structuring marine environments
6. Evaluate applicability of bycatch reduction measures from the NED experimental fishery to other U.S. and international fleets
7. Implement new or modified bycatch management measures as appropriate
8. Develop handling and release techniques brochure
9. Update the NOAA Fisheries HMS bycatch website with bycatch-related materials

8.3 Implementing Reasonable and Prudent Measures and Terms & Conditions from October 2003 and Pending Biological Opinions

Description of the Issue

Section 7(a)(2) of the ESA requires that each Federal agency shall ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat of such species. When the action of a Federal agency may affect a protected species, that agency is required to consult with either NOAA Fisheries or the U.S. Fish and Wildlife Service, depending upon the protected species that may be affected. During the development of Amendment 1 to the HMS FMP, NOAA Fisheries' Office of Sustainable

Fisheries (SF) requested that NOAA Fisheries' Office of Protected Resources consider the proposed rule for Draft Amendment 1 with respect to consultations previously concluded on HMS fisheries under Section 7 of the ESA. A Biological Opinion was completed in October 2003 that considered the effects of NOAA Fisheries' continued authorization of directed Atlantic shark fisheries regulated under the HMS FMP, specifically, the commercial bottom longline and gillnet fisheries and the recreational shark fishery. Earlier this year, SF requested reinitiation of consultation on the HMS pelagic longline fishery.

Based on observer data, observed and self-reported effort data, and the distribution and density of sea turtles in the action area, NOAA Fisheries anticipates that the continued prosecution of the Atlantic shark fisheries under the HMS FMP, including implementation of Amendment 1, may result in take. Currently available information on the relationship between sea turtles and smalltooth sawfish and the Atlantic shark fishery indicates that capture, injury and/or death of sea turtles and smalltooth sawfish is likely to occur. NOAA Fisheries determined that the level of anticipated take is not likely to jeopardize the continued existence of the endangered green, leatherback, and Kemp's ridley sea turtles, the endangered smalltooth sawfish or the threatened loggerhead sea turtle. The following options for Amendment 2 include reasonable and prudent measures from the October 2003 Biological Opinion that were determined to be necessary and appropriate to minimize impacts of incidental take of sea turtle and smalltooth sawfish in the Atlantic shark fishery. Additional measures may need to be taken per a new Biological Opinion anticipated for the HMS pelagic longline fishery.

Items included in the Biological Opinions

1. Implement or fund outreach programs for shark fishermen aimed at reducing the potential for serious injury or mortality of hooked sea turtles and smalltooth sawfish
2. Ensure that monitoring of Atlantic shark fisheries: (1) estimates total effort levels in this fishery; (2) detects adverse effects resulting from these fisheries; (3) assesses the actual level of incidental take in comparison with the anticipated incidental take specified in the opinion; (4) detects when the level of anticipated incidental take is exceeded; (5) collects improved data from each protected species encountered; and (6) determines the effectiveness of reasonable and prudent measures and their implementing terms and conditions
3. Require fishermen to handle protected species taken during fishing in such a way as to increase their chances of survival
4. Other

9.0 ISSUES AND OPTIONS: RECORDKEEPING AND RECORDING

9.1 Recreational Fishery Data Collection

Description of the Issue

Recreational fisheries are a major component of Atlantic HMS fisheries. By definition, recreational landings of Atlantic HMS are those that are not marketed through commercial channels; therefore, it is not possible to monitor anglers' catches through ex-vessel transactions as in the commercial fishery. Instead, NOAA Fisheries collects data through other means including the two primary statistical sampling surveys of the recreational fisheries: the Marine Recreational Fishery Statistics Survey (MRFSS) and the Large Pelagics Survey (LPS). Both surveys consist of a telephone survey to estimate effort and a dockside intercept program to collect CPUE data or landings. The MRFSS is a survey designed to provide regional and state-wide estimates of recreational catch for marine species in the Atlantic and Gulf (except Texas). It was not designed to account for the unique characteristics of HMS fisheries, although information on these species is obtained by the survey. The LPS was originally designed to estimate annual recreational catches of BFT from North Carolina through Massachusetts in the summer (primarily for small and medium BFT) and to evaluate abundance trends of BFT by monitoring catch and effort. Although it was designed for BFT, the LPS collects data on other HMS as well.

NOAA Fisheries also uses other programs to collect information on recreational fisheries for Atlantic HMS. In 1997, NOAA Fisheries instituted a mandatory call-in system to supplement monitoring of the recreational fishery for BFT. All vessels landing BFT against the Angling category quota are required to participate in both the call-in reporting and survey programs. A similar call-in system for billfish was implemented in 2003. In 1999, NOAA Fisheries began a pilot program in the Gulf of Mexico to collect improved data from the for-hire sector as part of the MRFSS. A similar modification to the MRFSS on the Atlantic coast was implemented in 2003 and includes for-hire vessels which possess the HMS Charter/Headboat permit. NOAA Fisheries is also working cooperatively with individual states to develop more effective monitoring of Atlantic HMS recreational fisheries, such as the North Carolina and Maryland catch cards and body tag systems.

In 1998, NOAA Fisheries implemented a mandatory registration system for tournaments involving any billfish, with mandatory reporting if selected. The HMS FMP extended this requirement to tournaments directed at any Atlantic HMS, in order to improve estimates of HMS catches and landings by tournament participants. Because the LPS does not extend into the south Atlantic or Gulf of Mexico, tournament data can provide information on which species are targeted in these areas, as well as release rates.

NOAA Fisheries seeks to enhance its data collection efforts. Some possible options include:

Options Available for Consideration

1. Maintain current data collection programs (Status quo)

2. Evaluate (HMS) headboat mandatory observer coverage and baseline program
3. Investigate bycatch related data collection through the LPS
4. Promote charterboat voluntary observer coverage and pilot program
5. Pursue Atlantic tunas General and HMS Angling category bycatch data collection program
6. Increase sample sizes for MRFSS For-Hire/LPS Headboat Surveys
7. Extend scope of LPS through the south Atlantic, Gulf of Mexico and Caribbean
8. Increase the number of catch card programs run through the states
9. Expand census data collection programs w/states cooperation
10. Implement a vessel logbook program
11. Other

9.2 Streamlining the Reporting Process

Description of the Issue

Dealers and fishermen provide fishery dependent information that is essential to the management of HMS fisheries. Data on landings and sales provided by dealers and information on catch, landings, location, and effort provided by fishermen are used for biological, social, and economic analyses necessary for fisheries management. Data collection requirements and needs frequently vary from fishery to fishery even within HMS. As a result, dealers and fishermen may be required to report data about different species on different NOAA Fisheries forms to more than one NOAA Fisheries office. Different types of information may be collected using different methodologies such as vessel trip reports or vessel logbooks. Most are submitted in hard copies, but some fisheries have instituted electronic reporting.

Currently in HMS fisheries, all commercial fishing vessels and charter/headboat vessels are required to submit logbooks for all HMS trips, if they are selected for reporting. Permit holders selected for reporting include all shark and swordfish fishermen and Atlantic tunas longline category vessels. These permit holders are required to submit logbooks to the Southeast Region of NOAA Fisheries.

The purpose of addressing this issue is to better coordinate the current reporting requirements for dealers and fishermen of HMS species, with the intent of streamlining existing reporting requirements, and ensuring that all information necessary for the management of HMS species is being collected. The following options are being considered.

Options Available for Consideration

1. Maintain current logbooks and reporting regulations (Status quo)
2. Select 100 percent of all commercial and charter/headboat HMS fisheries for logbook reporting
3. Select a statistically valid sample size of each commercial fishery and charter/headboat HMS sector for logbook reporting
4. Include fields on logbook forms for information on spotter plane use
5. Require logbooks for recreational HMS fisheries

6. Select 10 percent of recreational anglers for logbook reporting
7. Select a statistically valid sample size of recreational anglers for logbook reporting
8. Require mandatory electronic logbooks
9. Provide the option to use electronic logbooks
10. Create standardized logbooks for all HMS fisheries
11. Standardize dealer reporting for all HMS fisheries
12. Other

9.3 Observer Coverage for HMS Fisheries

Description of Issue

Observers can provide a baseline of data and biological samples that can be used to estimate the accuracy of data from other data collection programs, including industry based programs such as logbooks or vessel trip reports. Observer data are generally considered to be a high standard of quality, and observer programs are quite expensive to implement. NOAA Fisheries would like to further enhance and improve these programs by working with affected constituents to determine the best method for collecting data.

Current HMS regulations allow NOAA Fisheries to select any vessel that has an Atlantic HMS tunas, shark, or swordfish permit for observer coverage. Vessels permitted in the HMS Charter/Headboat and Angling categories can be requested to take observers on a voluntary basis. The June 14, 2001, and the October 29, 2003, Biological Opinions for HMS fisheries require NOAA Fisheries to collect observer information specific to sea turtles and marine mammals on pelagic longline vessels and commercial vessels participating in the Atlantic shark fisheries. Thus, to date, the only HMS fishermen that have been selected for observer coverage are those with the following permits: directed swordfish limited access using pelagic longline gear and directed shark limited access using bottom longline or gillnet gear.

Options Available for Consideration

1. Continue to select only directed swordfish and shark permit holders (Status quo)
2. Select 100 percent of all HMS commercial vessels for observer coverage
3. Increase observer coverage for each commercial fishery sector
4. Require mandatory observer coverage on HMS charter/headboat vessels
5. Select 100 percent of all HMS charter/headboat vessels for observer coverage
6. Enhance observer coverage of charter/headboat vessels
7. Require mandatory observer coverage in HMS recreational fisheries
8. Select a statistically valid sample of recreational vessels for observer coverage
9. Other

9.4 Paying for Observer Coverage

Description of the Issue

While observer coverage provides high-quality data, the cost of observer programs is very high. NOAA Fisheries is interested in developing creative funding options so these data collection

programs can be more fully employed, which would result in better information for future management of HMS fisheries.

The shark bottom longline observer program is funded in part by the National Observer Program (NOP) and in part by the HMS Management Division. Most recently, the program has been paid for entirely by the NOP. Other NOAA Fisheries observer programs are funded through the NOP by non-discretionary Congressional earmarks, by a combination of the NOP and funds raised through the industry, and by other appropriated sources including, but not limited to: the American Fisheries Act, Marine Mammal Protection Act, and Endangered Species Act.

Options Available for Consideration

1. Continue current system of paying for observer coverage (Status quo)
2. Vessels selected for coverage must pay for their observer
3. Costs of observer coverage are incorporated into permit fees
4. Vessels are allocated additional catch to offset costs of observer coverage
5. Commercial fisheries are allocated additional catch for an observer/research fund
6. Other

9.5 Mandatory Collection of Cost-earning Information

Description of the Issue

Economic data are critical to ensure the accurate assessment of economic impacts of proposed fishery management regulations on commercial fishermen and their communities as required by domestic laws including the National Environmental Policy Act (NEPA), Executive Order 12866, the Regulatory Flexibility Act (RFA), and National Standards 7 and 8 of the Magnuson-Stevens Fishery Conservation and Management Act. In 2003, NOAA Fisheries began mandatory collection of cost-earnings information from selected commercial fishermen fishing in the shark and swordfish fisheries. These cost-earnings data are collected on a trip basis (e.g., the price and amount of fuel, bait, lightsticks, ice, and groceries used per trip, the total cost of the trip, the number of crew, the shares the owner, captain, and crew obtained from the trip) and on an annual basis (e.g., cost of repairs and maintenance, all fishing supplies, insurance, purchase of capital, boat dockage, loan payments, and business taxes). Current regulations allow for mandatory collection of economic data in other HMS fisheries but NOAA Fisheries has not required this to date.

Economic data regarding recreational HMS fisheries is limited at this time. Collecting information on cost earnings from recreational fishermen who participate in registered tournaments of tournament operators would improve NOAA Fisheries' ability to assess the economic impacts of proposed fishery management regulations on recreational fishermen and their communities as well as better achieve resource conservation goals.

Options Available for Consideration

1. Mandatory collection of cost-earnings information from commercial shark and swordfish fishermen only (Status quo)

2. Expand mandatory collection of cost-earnings information to include recreational fishermen who participate in registered tournaments (see Section 7.1)
3. Expand mandatory collection of cost-earnings information to include registered tournament operators (see Section 7.1)
4. Other

10.0 ISSUES AND OPTIONS: WORKSHOPS

Description of the Issue

During the public comment period for Amendment 1, NOAA Fisheries received many comments in support of workshops for commercial and recreational fishermen. Additionally, the October 29, 2003, Biological Opinion for Amendment 1 to the HMS FMP requires that NOAA Fisheries implement a series of workshop or other training programs. These programs should, at a minimum, provide information regarding gear handling techniques and protocols to deal with entanglements and protected species in general, information on smalltooth sawfish, and information on the requirements of Amendment 1. A similar requirement is likely to be included in the new Biological Opinion for the HMS pelagic longline fishery. The HMS Advisory Panel has also indicated interest in conducting these workshops. Thus, NOAA Fisheries seeks public input regarding the focus of these workshops, whether the workshops should be voluntary or mandatory, incentives for increasing attendance, and a variety of implementation issues. The following options are split into several categories but the options in one category often have direct bearing on the options in the other categories listed.

Options Available for Consideration

Purpose

1. Facilitate and enhance fishery participant's ability to accurately identify HMS
2. Demonstrate release and handling techniques for finfish, sea turtles, and marine mammals
3. Promote and enhance compliance with fishery regulations
4. Ensure dealers and fishermen know how to fill out and submit reports and logbooks to improve accuracy of reported data
5. Increase opportunities for open discussions between fisherman and NOAA Fisheries staff
6. Facilitate the transfer of fishing techniques between participants
7. Other

Mandatory or voluntary

1. Mandatory for all HMS commercial and recreational permit holders; include mechanisms to ensure compliance (e.g., require completion of workshop as a pre-requisite for a permit or permit renewal, require certification that workshop was completed, revoke permit if non-compliance)
2. Voluntary for all HMS commercial and recreational permit holders; include incentives to increase voluntary participation in workshop (i.e., parties, certificates, stickers for wheelhouse, give-away permits)
3. Mandatory for all HMS commercial permit holders, but voluntary for all HMS recreational permit holders
4. Mandatory for all HMS recreational permit holders, but voluntary for all HMS commercial permit holders
5. Other

Attendance

1. Workshop would be required/voluntary for vessel captain, crew, owners
2. Workshop would be required/voluntary for vessel captain and crew
3. Workshop would be required/voluntary for vessel captain and owner
4. Workshop would be required/voluntary for vessel owner
5. Workshop would be required/voluntary for vessel captain
6. Certification of attendance required for X people on board or X percent of people on board
7. Other

Locations

1. At select regional locations, chosen on the basis of port landings of HMS
2. In the fishery participant's home/business
3. At select NOAA Regional Offices
4. At select fishing and boating forums
5. Other

Presentation Type

1. Workshops would be presented via internet
2. Workshops would be presented via video-conferencing equipment
3. Workshops would be presented via face-to-face interaction with a workshop facilitator
4. Workshop material distributed via mailings (Cd-roms, DVDs, books, flyers, pamphlets, and electronic newsletters) with feedback (e.g., written or electronic test) required
5. Other

Timing (only if face-to-face or video conference presentation type selected)

1. During the closed season
2. During the off season
3. During the winter
4. When the moon is new
5. Once a month
6. Once a quarter
7. Twice a year
8. Once a year
9. Other

Compliance monitoring (only if mandatory requirement)

1. Certification is a pre-requisite for renewing permit; permit not renewed until X percent of crew is certified

2. Certification is a pre-requisite for renewing permit; permit not renewed until the vessel operator is certified
3. Require all certifications to be on board vessel; monetary fines if crew and/or operator is not certified
4. Other

11.0 ISSUES AND OPTIONS: EXEMPTED FISHING/SCIENTIFIC RESEARCH/PUBLIC DISPLAY PERMITS

11.1 Restructuring the Exempted Fishing/Scientific Research Permit Process

Description of the Issue

NOAA Fisheries has received comments regarding the NEPA process for the issuance of EFP/SRP/Display Permits for aquariums, researchers, and collectors of HMS. Some concerns pertain to the public notification and input aspects (e.g., Notices of Intent (NOIs)), others address the components of the process (e.g., environmental assessments (EAs) and biological opinions), and other focus on activities authorized in such permits (e.g., whether commercial sale of fish caught during exempted fishing should be approved). Commenters also have expressed concerns regarding the opportunity to review individually permitted actions and to provide input as warranted on the conduct of these activities. NOAA Fisheries is working to improve its processes regarding EFPs/SRPs/Display Permits including the preparation of NEPA documents and coordination between NOAA Fisheries offices regarding ESA and other laws.

Options for Consideration

1. Continue publishing one general NOI for issuing EFPs/SRPs/Display Permits at the beginning of the calendar year to cover all permits expected to be issued; prepare a separate NOI only for unexpected actions (Status quo)
2. Prepare a separate NOI for each permit to be issued, expected or not
3. Continue with the current process of in-house preparation of NEPA documents as warranted (Status quo)
4. Require the applicant to submit an EA or EIS as part of the permit application
5. Undertake one general consultation under the ESA with the Office of Protected Resources (PR) to cover all permits expected to be issued for the year (similar to the general NOI now published); undertake separate consultations for unexpected actions
6. Undertake a separate consultation under the ESA with PR for each permit to be issued
7. Notify the public of the decision each time a permit is issued
8. Provide a summary of the number and types of permits issued upon request
9. Other

11.2 Exempted Fishing/Scientific Research /Display Permit Quota Basis

Description of the Issue

Currently, there is a separate quota of 60 mt ww for sharks for the purposes of public display and scientific research. There is no such quota for tunas, swordfish and billfishes because the permits for these species are issued consistent with ICCAT quota recommendations. Commenters have expressed concerns that the 60 mt ww quota for sharks may be too high, and have presented questions regarding the allocation for tunas, swordfish, and billfishes. The following alternative options would define a basis for establishing quotas for all HMS collected under this permit system.

Options for Consideration

1. Maintain the shark quota of 60 mt ww and for tunas, continue to issue permits for other HMS species in accordance with ICCAT recommendations (Status quo)
2. Establish a shark quota based on the average number of sharks authorized over the last three years; establish quotas for tunas, swordfish and billfishes based on ICCAT recommendations or on the average number of fish authorized over the last three years
3. Establish a shark quota based on the average number of sharks reported over the last three years; establish quotas for tunas, swordfish and billfishes based on ICCAT recommendations or on the average number of fish reported over the last three years
4. Establish a shark quota based on the number of sharks authorized over the last calendar year alone; establish quotas for tunas, swordfish and billfishes based on ICCAT recommendations or on the average number of fish authorized over the last year alone
5. Establish a shark quota based on the number of sharks reported over the last calendar year alone; establish quotas for tunas, swordfish and billfishes based on ICCAT recommendations or on the average number of fish reported over the last year alone
6. No quotas for the purpose of public display or scientific research
7. Other

11.3 Requirements for Display Permits

Description of the Issue

Display permits are included in a special category of permits that confer a benefit on certain individuals engaged in collecting HMS. Currently, except for submitting an application letter describing the intended activities and meeting certain reporting requirements, applicants do not need to meet any criteria in order to receive a Display Permit to collect HMS for public display/education purposes. However, commenters have noted a number of concerns regarding the fishing methods used (e.g., gear, soak time) and also the adequacy of both the holding facilities and the final destination facilities in maintaining the animals in a healthy state (e.g., a high standard of animal husbandry). Thus, NOAA Fisheries is asking for comments on the following options.

Options for Consideration

1. Application letter (Status quo)
2. The applicant must demonstrate that the fishing practices used, if they differ from those used in the commercial or recreational fishery, will minimize bycatch and must provide a bycatch mitigation plan in the event non-targeted species (e.g., sea turtles, billfishes) are caught
3. The applicant must demonstrate that holding facilities for HMS collections maintain a high standard of animal husbandry practices, comparable to American Zoo and Aquarium Association (AZA) standards
4. Establish a denial and appeal process in instances where a collector has recent fisheries violations
5. Issue Display Permits only to aquariums and other display facilities that meet AZA standards for such facilities and not to third party collectors, who, however, could still

collect animals for these facilities under contract

6. Limit the issuance of Display Permits for the collection of HMS that are not likely to survive well in captivity (e.g., billfish), based on available information on disease or mortality of such animals in captivity
7. Require public display facilities, including aquariums not otherwise authorized by a collection Display Permit, to obtain from NOAA Fisheries a special permit in order to receive HMS for captivity by demonstrating that the facilities are adequate for a high standard of animal husbandry practices
8. Create a collector's permit with specific requirements that must be met before such a permit is renewed
9. Require aquariums and collectors to provide information on previously taken animals
10. Require collectors to report which aquarium the fish went to
11. Other

11.4 Monitoring and Enforcement

Description of the Issue

Commenters have expressed concerns regarding the actual number of HMS, particularly sharks, that are collected each year for public display/education purposes in state versus Federal waters. Regulations vary between states and between state and Federal waters, with each entity setting its own display/scientific quota and permit procedures. This wide range of regulatory requirements and separate quotas may result in overlapping state and Federal allocations and potential capture of more animals than intended, increased fishing effort in states with liberal regulatory requirements, problems with enforcement and collector accountability, and difficulty in assessing the overall number of HMS taken. Some states may not require follow-up reporting as to actual numbers of fish caught. This problem is of particular concern regarding preferred "prohibited" species (e.g., sand tiger sharks) whose numbers have sharply declined.

Options for Consideration

1. Enter into separate agreements directly with individual states to develop a coordinated Federal/state quota and reporting system for HMS collected for public display/education, including the development of a common data base for recording permits issued, numbers of animals authorized for collection, and actual numbers collected, etc.
2. Work through the Atlantic States Marine Fisheries Commission (ASMFC) and the Gulf States Marine Fisheries Commission (GSMFC) to organize their member states to develop a coordinated Federal/state quota and reporting system for HMS collected for public display/education, including the development of a common data base for recording permits issued, numbers of animals authorized for collection, and actual numbers collected, etc.
3. As part of the permit application, require aquariums and other display facilities that request permits annually for the same suite of animals to document the disposition of each animal collected under the previous permits as well as provide an annual update on the state of the animals, and also to justify the new request
4. Require permit applicants to submit copies of any state permits and, if issued the Federal

permit, to notify us if additional state permits are issued

5. Other

12.0 ISSUES AND OPTIONS: GENERAL

12.1 Authorized Gears

Description of the Issue
Innovative fishing gears and techniques are essential to increasing efficiency and reducing bycatch in fisheries for Atlantic HMS. As current or traditional gears are modified and new gears are developed, NOAA Fisheries needs be cognizant of these advances to gauge their potential impacts on the resource and resource use. New or modified fishing gears and techniques may have significant positive or negative impacts on target catch rates, bycatch rates, or protected species interactions, all of which can have important management implications. New gears and techniques need to be evaluated by NOAA Fisheries for qualification as an authorized gear type.

One unclassified gear type, referred to as the "green stick rig," is being used by recreational and commercial fishermen to target Atlantic HMS. Green stick rigs generally consists of a 35-45 foot fiberglass pole mounted to the deck of a vessel or top of the wheelhouse. Several leaders hang down from a mainline, to which a lure is attached, and are towed behind a vessel. The splashing caused by the lure attracts fish. Under current regulations, any mainline with three of more hooks is considered a longline, and therefore, should not be used by anglers. Freedivers have also requested the use of spearguns in HMS fisheries.

Options Available for Consideration
1. Maintain current list of authorized gears (Status quo)
2. Authorize the use of green stick rig in all/some HMS fisheries
3. Authorize the use of spearfishing gear in HMS fisheries
4. Other

12.2 Combining the HMS and Billfish FMPs

Description of the Issue
During the development of the 1999 HMS FMP and the 1999 Amendment 1 to the Billfish FMP, NOAA Fisheries made a decision to combine the management of tunas, swordfish, and sharks into one FMP and to keep billfish in its own FMP. Billfish was separated because the billfish fishery is only recreational while the other three fisheries are both commercial and recreational. As a result of this decision, two Advisory Panels were created. The regulations for all four fisheries are found in 50 CFR part 635. In Amendment 1 to the Billfish FMP, NOAA Fisheries specified that bycatch issues with commercial gear would be handled in the HMS FMP, not the Billfish FMP. However, since 1999, NOAA Fisheries has come across several instances where management of the billfish fishery, particularly related to bycatch concerns, may have been easier if the FMPs were combined. If the FMPs are combined, the APs would likely be combined as well.

Options Available for Consideration

1. Maintain current FMPs (Status quo)
2. Combine the HMS FMP and the Billfish FMP
3. Combine species for each FMP in other combinations
4. Other

13.0 ISSUES AND OPTIONS: ESSENTIAL FISH HABITAT

The Magnuson-Stevens Act mandates that each FMP describe and identify essential fish habitat for the managed fishery, minimize to the extent practicable adverse fishing effects on that EFH, and identify other actions to encourage the conservation and enhancement of such EFH. EFH is defined in the statute as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.

13.1 Description and Identification of EFH

Description of the Issue

The Magnuson-Stevens Act required the Secretary, through NOAA Fisheries, to establish by regulation guidelines to assist in the description and identification of EFH in FMPs, among other things, and that the agency set forth a schedule for the amendment of FMPs to include EFH and for the review and update of such identifications based on new scientific evidence or other relevant information. The EFH guidelines articulate processes for determining the extent of EFH that encompasses each species and lifestage of the managed fishery. In addition, the EFH guidelines call for periodic review and revision of EFH identified areas based on available information, as well as a complete review of all EFH information at least once every 5 years.

NOAA Fisheries originally described and identified EFH or all HMS in 1999, and recently updated the EFH for five shark species (blacktip, dusky, finetooth, nurse, and sandbar) in Amendment 1 to the FMP for Atlantic Tunas, Swordfish, and Sharks, which was implemented in 2003. For Amendment 1 to the Billfish FMP and Amendment 2 to the HMS FMP, NOAA Fisheries will review the information available for HMS and update such EFH identifications and descriptions, as appropriate.

1. Maintain current EFH identifications and descriptions (Status quo).
2. Identify and describe EFH based on the entire geographic range of the fishery.
3. Modify the current EFH identifications and descriptions for those species and lifestages of the managed fishery based on the habitat necessary for spawning, breeding, feeding, or growth to maturity.
4. Modify the current EFH identifications and descriptions for those species and lifestages of the managed fishery based on the habitat necessary for spawning, breeding, feeding, or growth to maturity and increase or decrease current or modified EFH areas based on special needs of the species within the fishery (i.e. increasing EFH for overfished species and decreasing expanded EFH for rebuilt species).
5. Other.

13.2 Habitat Areas of Particular Concern

Description of the Issue
To further the conservation and enhancement of EFH, the EFH guidelines encourage FMPs to identify Habitat Areas of Particular Concern (HAPCs). HAPCs are areas within EFH that meet one or more of the following criteria: they are ecologically important, particularly vulnerable to degradation, undergoing stress from development, or they are a rare habitat type. HAPCs can be used to focus conservation efforts on specific habitat types that are particularly important to the managed species. HMS EFH only has one identified HAPC, which was identified for the sandbar shark in the 1999 HMS FMP. Although no new HAPCs were identified in the Amendment 1 to the HMS FMP, this amendment may consider alternatives for HAPC identifications for areas that meet one or more of the criteria for HAPCs as articulated in the EFH guidelines based upon information provided by the Technical Review Team or from other information gathered during this review.

1. Maintain current HAPC; do not identify any new HAPCs (Status quo).
2. Maintain current HAPC; identify new HAPCs within HMS EFH consistent with the guidelines and taking into consideration special needs of the species within the fishery.
3. Other

13.3 Minimizing Fishing Effects on EFH

Description of Issue
As mandated by the Magnuson-Stevens Act, each FMP, and any plan amendments, must ensure that adverse fishing effects on the identified and described EFH of all Federally managed fish species are minimized to the extent practicable. The EFH guidelines require each FMP and amendment to conduct an evaluation of the potential adverse fishing effects on EFH as well as implementation of those measures that prevent, mitigate, or minimize, to the extent practicable, such adverse effects that are more than minimal and not temporary. To determine whether additional measures are needed to minimize adverse fishing effects on EFH, the EFH guidelines encourage FMPs and plan amendments to identify a range of potential new actions that could be taken to address such effects on EFH, including an analysis of the practicability of those potential actions. The standard for calculating the practicability of minimizing an adverse fishing effect on EFH is defined in the EFH guidelines as a consideration of the nature and extent of the adverse effect on EFH and the long and short-term costs and benefits of potential management measures to EFH, associated fisheries, and the nation, consistent with National Standard 7.

Options Available for Consideration
1. Use existing regulations promulgated previously for either EFH or other purposes
2. Develop a suite of management measures to practicably minimize adverse fishing effects that include one or more of the following:
   a. Fishing equipment restrictions,
   b. Time/area closures, and/or
   c. Harvest limits.
3. Other

Table 13.1 The alternatives that are being considered by the Fishery Management Councils to identify HAPCs.

DEIS for EFH Identification and Conservation in Alaska
Alternative 1: No HAPC Identification, rescind existing HAPCs
Alternative 2: (Status Quo) HAPCs would remain in effect with no changes. Those designations include living substrates in deep water, living substrates in shallow water, and freshwater areas used by anadromous salmon
Alternative 3: Site Based Concept - allow specific sites within EFH, selected to address a particular problem, to be identified as HAPCs in the future (**Preferred alternative** - The Council will accept proposals from the public every three years for specific HAPCs. HAPC proposals have to meet at least two of the four considerations specified in the EFH regulations and rarity of the habitat would be a mandatory consideration)
Alternative 4: Type/Site Based Concept - allows specific sites selected within identified habitat types within EFH to be identified as HAPCs in the future
Alternative 5: Species Core Area - allows areas within EFH to be identified as HAPCs in the future based on productivity of the habitat for individual species

DEIS for the Generic EFH Amendment to the Gulf Fishery Management Plans
Alternative 1: No HAPC Identification, rescind existing HAPCs
Alternative 2: (Status Quo) HAPC are those general habitat types and specific sites that are listed in the 1998 Generic EFH Amendment; no additional HAPCs are identified
Alternative 3: HAPCs would consist of selected existing Federally managed marine areas including 2 National Marine Sanctuaries, 4 National Estuarine Research Reserves, 31 National Wildlife Refuges, 7 National Marine Fisheries Service Critical Habitat Areas Fisheries Management Zones, and 3 National Park Systems
Alternative 4: Identify and establish HAPCs as those habitat areas used by managed species for spawning that are most in need of protection (to be determined)
Alternative 5: Identify and establish HAPCs as those habitat areas used by managed species for early life stage development that are most in need of protection (to be determined)
Alternative 6: Identify and establish HAPCs as those habitat areas used by managed species as migratory routes that are most in need of protection
Alternative 7: HAPC consist of habitats that are “limiting” to the species in some way or could be considered a “bottleneck” for production
Alternative 8: HAPCs are identified as habitat parcels that meet one or more of the considerations set out in the EFH Final Rule
Alternative 9: The following areas are identified as HAPCs: the Flower Garden Banks, Florida Middle Grounds, Tortugas North and South Ecological Reserves, Madison Swanson Marine Reserve, and Pulley Ridge (**Preferred Alternative**)

DEIS for the Generic EFH Amendment to the Caribbean Fishery Management Plans
Alternative 1: No HAPC identification, rescind existing HAPCs
Alternative 2: Designate HAPC as nearshore reefs, nearshore hard bottom, and estuaries (Status Quo)
Alternative 3: Describe and identify HAPC as all habitat areas obligatory to species life history
Alternative 4: Designate HAPC in the Reef Fish FMP as the following areas based on the occurrence of confirmed spawning locations
Alternative 5: Describe and identify HAPC as those habitat areas used by early life stage development of each species in the management unit
Alternative 6: Describe and identify HAPC as those habitat areas used by managed species as migratory routes
Alternative 7: Designate HAPCs in the Reef Fish FMP the following natural reserves or sites (**Preferred Alternative**)
Alternative 8: Designate as HAPCs in the Coral FMP, the following natural reserves or sites (**Preferred Alternative**)

Table 13.2 The alternatives that are being considered by the Fishery Management Councils in order to

minimize adverse fishing impacts.

DEIS for EFH Identification and Conservation in Alaska
Alternative 1: Status Quo (No Action – **Preferred Alternative**)
Alternative 2: Gulf Slope bottom trawl closure
Alternative 3: Upper Slope bottom trawl prohibition for GOA slope rockfish
Alternative 4: Bottom trawl closures in all management areas
Alternative 5A: Expanded bottom trawl closures in all management areas
Alternative 5B: Expanded bottom trawl closures in all management areas with sponge and coral area closures in AI
Alternative 6: Closures to all bottom tending gear in 20 percent of fishable waters

DEIS for the Generic EFH to the Gulf Fishery Management Plans
Alternative 1: (No Action, Status Quo). Use existing regulations to prevent, mitigate, or minimize adverse fishing impacts in State and Federal waters of the Gulf of Mexico
Alternative 2: Establish minor modifications to fishing gears and a gear closure on sensitive habitat to prevent, mitigate, or minimize adverse fishing impacts in the EEZ
Alternatives 3 –5: Establish progressively more restrictive modifications to gears and gear closures on sensitive habitat
Alternative 6: (**Preferred Alternative**) Establish minor modifications to fishing gears and a gear closures on sensitive habitat to prevent, mitigate, or minimize adverse fishing impacts in the EEZ with the following action items

1. Regulate fishing weights on vertical line fishing gear used over coral reefs in HAPCs.
2. Prohibit bottom anchoring over coral reefs in HAPCs
3. Prohibit use of bottom longlines, buoy gear, and all traps/pots on coral reefs
4. Prohibit the use of trawling gear on coral reefs
5. Require a weak tickler chain of bottom trawls on all habitats

DEIS for the Generic EFH to the Caribbean Fishery Management Plans
Alternative 1: (No Action, Status Quo). Use existing regulations to prevent, mitigate, or minimize adverse fishing impacts in State and Federal waters of the Gulf of Mexico
Alternative 2: Establish modifications to anchoring and pots/traps and close areas to pots/traps for recreational and commercial fishing gears to prevent, mitigate, or minimize adverse fishing impacts in the EEZ
Alternative 2.5: Establish modifications to anchoring and pots/traps and close areas to pots/traps and close areas for recreational and commercial fishing gears to prevent, mitigate, or minimize adverse fishing impacts in the EEZ
Alternative 3: (**Preferred Alternative**) Establish modifications to anchoring, and pots/traps, and close areas to pots/traps, gill/trammel nets, and bottom longlines, for recreational and commercial fishing gears to prevent, mitigate, or minimize adverse fishing impacts in the EEZ
Alternative 4: Establish modifications to anchoring and pots/traps and close additional areas to pots/traps, gill/trammel nets, bottom longlines, and fishing with SCUBA for recreational and commercial fishing gears to prevent, mitigate, or minimize adverse fishing impacts in the EEZ
Alternative 5: Establish total prohibitions on selected recreational and commercial fishing gears to prevent, mitigate, or minimize adverse fishing impacts in the EEZ

14.0 ISSUES AND OPTIONS: TUNA/SWORDFISH/SHARK PERMITS

14.1 Upgrading restrictions

Description of the Issue

The limited access program was established in the HMS FMP in 1999 in order to reduce latent effort and rationalize the current harvesting capacity with the available quota. As such, the program included upgrading restrictions for the directed swordfish, swordfish handgear, and directed shark permits. The upgrading restrictions were based on the restrictions that had already been adopted by the New England and Mid-Atlantic Fishery Management Councils because many fishermen participated in fisheries subject to their purview and limited the amount of horsepower, length, gross tonnage, and net tonnage of each vessel issued a limited access permit. Since implementation, a number of fishermen have had problems adapting to or understanding the upgrading restrictions. Because some of the vessels in HMS fisheries are fairly small (~30 feet in length), some fishermen feel that the current upgrading restrictions limit their options in buying or obtaining safer vessels. Additionally, other fishermen feel that the restrictions on horsepower and length are not the appropriate measurements to use to maintain the harvesting capacity of a primarily longline fleet and that NOAA Fisheries should use measurements of hold capacity instead. Shark fishermen have noted that the 4,000 lbs trip limit (see Section 5.2) already restricts their fishing and that the upgrading restrictions only limits their participation in other fisheries, not HMS fisheries.

Options Available for Consideration

1. Maintain current restrictions of 20 percent limit on horsepower and 10 percent limit on length overall, gross registered tonnage, and net registered tonnage (Status quo)
2. Eliminate current restrictions and use a measurement of hold capacity
3. Maintain current restrictions and add a measurement of hold capacity
4. Establish vessel size classes and restrict upgrading to keep vessel within a size class
5. Eliminate all upgrading restrictions
6. Eliminate upgrading restrictions for certain permit types such as directed shark vessels
7. Do not allow vessels to upgrade
8. Other

14.2 Incidental Trip Limits

Description of the Issue

As part of the limited access program, NOAA Fisheries issued two types of permits - directed and incidental. The directed permits allowed fishermen to target swordfish or sharks, depending on the permit, while the incidental permits allowed fishermen targeting other species to keep a limited number of swordfish or sharks. NOAA Fisheries created the incidental permits in part to reduce regulatory bycatch. Fishermen have commented that, particularly the swordfish incidental limits, are too low, have not reduced regulatory discards, and have reduced the profitability of fishermen targeting other species. Several options are available for consideration.

Options Available for Consideration

1. Maintain current incidental trip limits of 2 swordfish/trip for authorized gear types, 5 swordfish/trip for squid trawl vessels, 5 large coastal sharks/trip, and 16 pelagic or small coastal sharks/trip (Status quo)
2. Adjust incidental trip limits based on analyses of current landings and discards
3. Replace trip limits with an annual or seasonal limit (e.g., xx swordfish allowed in entire year)
4. Allow incidental permit holders to land and sell fish under incidental trip limit regardless of directed fishery closures
5. Remove trip limits
6. Redefine squid trawl limits as non-directed/non-incidental
6. Other

14.3 Streamlining the Limited Access Permits

Description of the Issue

Historically, HMS permits were issued generally based on the target species (e.g., to fish for swordfish commercially, fishermen needed a swordfish permit). With the implementation of the HMS FMP, this regime began to change. In the HMS FMP, to prevent fishermen without a swordfish permit from fishing for tuna with pelagic longline and discarding swordfish, NOAA Fisheries required a combination of three permits (swordfish, tuna, and shark) for either the swordfish (directed or incidental) or tuna longline category permits to be valid. Fishermen who participate in multiple or seasonal fisheries have commented that the permit requirements present problems for them. For example, starting in 2000, a charter/headboat vessel owner fishing for any HMS, needed an HMS charter/headboat permit. If the fisherman also wanted to fish for swordfish or tunas with pelagic longline in the off-season, a combination of a swordfish directed or incidental permit, a shark directed or incidental permit, and a tuna longline category permit was also required. Under the current regulations, the same vessel cannot have both a tuna longline category permit and an HMS charter/headboat permit. Thus, this fisherman would need to buy two vessels: one with the three limited access permits and pelagic longline gear and one with the HMS charter/headboat permit, or forego one of these activities. Additionally, some fishermen, such as squid trawlers, are required to obtain a shark and tuna longline category permit in order to land an incidental number of swordfish even though they may never use longline gear.

Options Available for Consideration

1. Maintain current permit structure: a combination of species-based permits (e.g., swordfish) and activity-based permits (e.g., charter/headboat) (Status quo)
2. Change to gear- or activity-based permits (e.g., pelagic longline, charter/headboat) with distinctions for directed or incidental; allow vessels to have only one HMS gear- or activity-based permit
3. Change to gear- or activity-based permits (e.g., pelagic longline, charter/headboat); allow vessels to have multiple HMS gear- or activity-based permits
4. Combine the current three-permit requirement (swordfish, tuna longline, shark) into one

permit (combination of swordfish, tuna longline, shark) with distinctions for directed or incidental permits

5. Maintain current permit structure but allow vessels to have both a tuna longline permit and one other tuna category or HMS Charter/Headboat or HMS Angling permit
6. Maintain current permit structure but exempt squid trawlers from requirement to hold shark and tuna longline category permits
7. Maintain current permit structure but require the three-permit combination only if longline gear is on board the vessel
8. Other

14.4 Defining Bottom and Pelagic Longline Gear

Description of the Issue

The HMS FMP implemented a time/area closure in the Northeast Distant Closure area specific to HMS vessels with pelagic longline gear on board. Since that time, there have been numerous other HMS closures specific to pelagic longline gear. In 2005, a time/area closure off the coast of North Carolina will be implemented for HMS vessels with bottom longline gear. To aid with enforcement of these closures, some HMS vessels with pelagic or bottom longline gear on board are required to have vessel monitoring systems (VMS) installed and activated. All the closures are only closed to vessels with that particular gear on board. For example, a vessel with bottom longline gear on board can fish in the DeSoto Canyon and does not need to have VMS installed. Current regulations define bottom and pelagic longline gear, but NOAA Fisheries has received comments requesting clarification of the definitions. The current definition of a longline (bottom or pelagic) is:

> fishing gear that is set horizontally, either anchored, floating, or attached to a vessel, and that consists of a mainline or groundline with three or more leaders (gangions) and hooks, whether retrieved by hand or mechanical means.

Pelagic longline gear is considered to be on board when all of the following elements are on the vessel (removal of one element removes the gear):

1. a power-operated longline hauler,
2. a mainline,
3. floats capable of supporting the mainline, and
4. leaders (gangions) with hooks.

Bottom longline gear is considered to be on board when all of the following elements are on the vessel (removal of one element removes the gear):

1. a power-operated longline hauler,
2. a mainline,
3. weights and/or anchors capable of maintaining contact between the mainline and the ocean bottom, and

4. leaders (gangions) with hooks.

The main difference between the current definitions is the presence or absence of floats or weights. However, some bottom longline fishermen use a limited number of floats to mark the gear and some pelagic longline fishermen use a limited number of weights to force the mainline into deeper water.

Options Available for Consideration

1. Maintain current definitions (Status quo)
2. Define the gears based on how many floats and/or weights are on board
3. Define the gears based on the species that are on board or on the line
4. Require the use of data loggers on all pelagic and bottom longline sets; vessel operators would need to maintain set depth logs
5. Require gear-based permits (see Section 14.3) and specify other requirements (e.g., VMS, time/area closures) by permit type, not gear on board
6. Base regulations on "longline" regardless of how it is fished (i.e., the same closures and gear restrictions would apply to both pelagic and bottom longline vessels)
7. Other

14.5 Further Rationalization of Permits with Harvesting Capacity

Description of the Issue

Overcapitalization associated with many open access fisheries can result in management problems including but not limited to derby-style fisheries, market gluts, safety concerns, and poor product quality. NOAA Fisheries has implemented a number of actions as initial steps in rationalizing the number of permits with harvesting capacity in HMS fisheries. In 1982 individual vessel quotas were introduced into the BFT purse seine fishery, and which were modified to individual transferrable quotas (ITQs). Additionally, control dates were established for commercial Atlantic swordfish, shark and tuna fisheries. NOAA Fisheries implemented a limited access program for commercial shark and swordfish fisheries in 1999. This program was designed to reduce latent effort while avoiding negative impacts to the livelihoods of those who are substantially dependent upon these fisheries, and did not result in directly reducing the capacity in these fisheries.

With the passage of the Sustainable Fisheries Act in 1996, Congress enacted a moratorium on the use of ITQs and other types of individual fishing quotas (IFQs) prior to completion of a National Academy of Sciences (NAS) investigation of the socio-economic and biological effects of this fishery management tool. The NAS study was completed in 1999, and as of October 2000, NOAA Fisheries may consider the use of IFQs in the context the study findings and recommendations, in addition to guidance set forth in the Magnuson-Stevens Act. IFQs offer a number of benefits, including better business planning for fishermen and relief from potential derby-style fishing pressures of open access fisheries. Potential drawbacks of an IFQ system include the elimination of some fishermen from the fishery and consolidation of quota shares, among other things.

In Amendment 2, NOAA Fisheries will continue to evaluate the need for reducing overcapacity in HMS Fisheries. NOAA Fisheries may consider expanding the use of IFQs in management of Atlantic HMS Fisheries and may consider the following options:

Options Available for Consideration

1. Maintain current limited access program; do not further rationalize the fishery (Status quo)
2. Remove permits in shark and swordfish limited access program that have not been used (e.g., no landings)
3. Require that new entrants into shark and swordfish limited access program purchase two sets of permits for issuance of one permit
4. Establish individual fishing quotas for swordfish and sharks
5. Establish individual transferrable quotas for swordfish and sharks
6. Allow BFT purse seine permit holders to transfer unused quota outside of the permit category
7. Other

14.6 Swordfish Handgear Permits

Description of Issue

The limited access program in the HMS FMP established a commercial swordfish handgear permit. This permit is a directed permit in that fishermen can target swordfish; however, fishermen using this gear type can only use handgear (e.g., harpoon, rod and reel, handline), not longline gear. In the HMS FMP, NOAA Fisheries allowed for an extra three months, compared to the other permits, to apply for a swordfish handgear permit. To be issued a swordfish handgear permit, a fisherman needed to show evidence of landing swordfish with handgear in the past, having been issued a swordfish permit for use with handgear, or of meeting an earned income requirement from any type of commercial fishing. Since implementation, NOAA Fisheries has heard that Caribbean fishermen did not know about this requirement and therefore did not apply for this permit. As a result, many artisanal fishermen are now landing swordfish illegally. NOAA Fisheries has also heard that, as a result of the East Florida Coast closure for pelagic longline, the handgear fishery has expanded and that there are not enough swordfish handgear permits for all interested parties. NOAA Fisheries has also heard that re-opening an application period for this permit would cause the value of the permit, which many fishermen have bought in order to participate under the current regulations, to decrease.

Options Available for Consideration

1. Maintain current number of swordfish handgear permits (Status quo)
2. Reopen the application process for artisanal fishermen in the Caribbean
3. Allow artisanal fishermen in the Caribbean to land a limited number of swordfish for commercial purposes without a handgear permit
4. Reopen the application process for all fishermen using the same process and qualifications outlined in the HMS FMP
5. Reopen the application process for all fishermen using a different process and

qualification structure than that outlined in the HMS FMP

6. Other

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