

CHAPTERS 11-13 TABLE OF CONTENTS

Chapters 11-13 Table of Contents 11-i

11.0 Other Considerations 11-1

 11.1 National Standards 11-1

 11.2 Ongoing Management and the Procedure for Adjusting Management Measures .. 11-11

 11.3 Consideration of Magnuson-Stevens Act Section 304(g) Measures..... 11-12

12.0 List of Preparers 12-1

**13.0 List of Agencies, Organizations, and Persons Consulted and to Whom Copies
of the EIS Will Be Sent..... 13-1**

11.0 OTHER CONSIDERATIONS

11.1 National Standards

The analyses in this document are consistent with the National Standards (NSs) and their guidelines set forth in the 50 CFR part 600 regulations. The following descriptions are a summary of how the preferred alternatives are consistent. More information can be found in Chapters 1, 2, 3, 4, 6, 7, 8, and 9.

NS 1 requires NMFS to prevent overfishing while achieving, on a continuing basis, the Optimum Yield (OY) from each fishery for the U.S. fishing industry. As summarized in Chapter 3, over the past years, NMFS has undertaken numerous management actions, including the 1999 FMP, Amendment 1 to the 1999 FMP, and Amendment 1 to the Billfish FMP, to address overfishing and to rebuild HMS stocks. The preferred alternatives in this HMS FMP are consistent with ongoing management efforts to rebuild, manage, and conserve target species and with the NS 1 guidelines.

- The preferred measures in this action for workshops should support those ongoing management efforts consistent with NS 1. While the preferred workshop alternatives do not directly impact fishing effort, the HMS identification workshops for shark dealers may improve the estimates of fishing mortality rates and MSY for sharks, and thus, enhance management efforts aimed at preventing overfishing and achieving OY.
- The preferred Madison-Swanson and Steamboat Lumps closures should support efforts aimed at achieving OY for gag grouper and may have some minor positive ancillary benefits for HMS. The preferred alternative to establish criteria for time/area closures would clarify the process NMFS uses to consider the status of the species before establishing or modifying time/area closures.
- The preferred alternative for northern albacore tuna would establish the foundation to implement domestically an international rebuilding plan that the United States would, during international negotiations, seek to develop in a manner that is consistent with the Magnuson-Stevens Act.
- The preferred alternative for finetooth sharks would identify sources of fishing mortality in order to implement appropriate management measures. Historically there have been approximately five vessels “targeting” sharks with drift gillnets or strikenets and observer data indicate that their landings comprise only a small portion of the total finetooth shark landings. Observer coverage was recently expanded to other gillnet vessels that catch sharks but target other species. These data indicate that these vessels use variations of gillnet and are also responsible for finetooth shark landings. As part of the plan to prevent overfishing, NMFS intends to collect more detailed information on finetooth shark landings and then address this issue through directed management measures and/or collaborative management with Regional Fishery Management Councils, state, or other management entities. These data will

be used for future stock assessments and to develop effective management measures to prevent overfishing of finetooth sharks.

- The preferred alternatives for the directed Atlantic billfish fishery support international management efforts aimed at preventing overfishing and rebuilding billfish stocks by addressing the contribution of U.S. anglers to Atlantic-wide landings and mortalities and implementing international recommendations.
- The preferred BFT alternatives would not increase overall fishing effort or the overall U.S. quota allocation from ICCAT and are consistent with ICCAT's western Atlantic BFT rebuilding program. The adjustment of the fishing year is largely administrative and would not likely impact fishing effort, catch, or age/size at harvest.
- The authorized fishing gear and regulatory housekeeping preferred alternatives would not increase fishing effort on target species beyond domestic and/or ICCAT-adopted quotas.

NS 2 requires that conservation and management measures be based on the best scientific information available. The preferred alternatives in this HMS FMP are consistent with this NS.

- One of the goals for the workshop alternatives is to improve the quality of the scientific information used in population assessments and in estimating bycatch and bycatch mortality. Pelagic and bottom longline and gillnet owners and operators would be trained to correctly identify protected species, thereby improving the quality of logbook data. HMS permitted shark dealers would be trained to identify sharks, either in whole or log form, thereby improving the accuracy of dealer reports.
- The time/area closure alternatives are based on up-to-date logbook and observer data and were analyzed using models, which are based on generally accepted principles in fisheries science, to analyze the range of potential impacts. Additionally, the preferred alternative to establish criteria for time/area closures should help ensure that the most up-to-date information and science is taken into account when new closures are being considered.
- The preferred alternative for northern albacore tuna is based on the most recent stock assessment results and the most up-to-date landings data submitted to ICCAT.
- The preferred alternative for finetooth sharks is based on the 2002 SCS stock assessment, which constitutes the best available scientific information. As described in Section 3.2.5.3, there was a lack of bycatch data and inconsistent catch series data when this assessment was conducted. The preferred alternative seeks to gain additional finetooth shark landings data through expanded observer coverage, contacting states to obtain landings data and including finetooth sharks as a select species for bycatch reporting in the Gulf of Mexico Shrimp Trawl Fishery Observer Program.
- The analyses and preferred measures for Atlantic billfish are based on the best available scientific information, including the latest information available on the post-release mortality of Atlantic white marlin and other species.

- For BFT, the preferred alternatives consider the most recent biological information to determine the availability of BFT both geographically and temporally. The alternatives also consider current and historical harvest rates and fishing patterns to establish the General category time periods and subquota allocations. The BFT quota allocation recommended by ICCAT is based on the most recent stock assessment (2002). BFT management measures, along with management measures for other ICCAT species, may be reconsidered after the upcoming 2006 BFT stock assessment.
- The preferred alternative regarding the fishing year may slightly enhance the availability and utility of scientific information for international stock assessments and management reviews since the data would be reported in a way that would be consistent with most other international information.
- The potential impacts of preferred authorized fishing gear alternatives and regulatory housekeeping alternatives were analyzed using the best scientific information available including logbook data.

NS 3 requires that, to the extent practicable, an individual stock of fish be managed as a unit throughout its range, and interrelated stocks of fish be managed as a unit or in close coordination. The preferred alternatives in this HMS FMP are consistent with this NS.

- Many of the preferred alternatives – including the workshop, time/area closure, fishing year, authorized gear, and regulatory housekeeping alternatives – do not influence the HMS management units or the geographic scope of the fishery.
- The preferred alternative for finetooth sharks would ensure that finetooth sharks continue to be managed within the SCS complex throughout their range, which includes the south Atlantic, Gulf of Mexico, and Caribbean. NMFS intends to seek collaborative efforts with states and Regional Fishery Management Councils in these regions to address comprehensively finetooth shark fishing mortality throughout the species' range.
- The preferred alternatives for northern albacore tuna and the directed billfish fishery apply uniformly to albacore tuna and billfish stocks within those portions of their ranges over which the United States has jurisdiction, thereby facilitating management as a unit. In addition, the United States continues to participate at ICCAT to further conservation and management of HMS species through international rebuilding efforts.
- The preferred alternatives to change the time-period allocations for the BFT General category ensure that the fishery is managed throughout the geographic scope of that fishery.

NS 4 requires that conservation and management measures do not discriminate between residents of different states. Furthermore, if it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation should be fair and equitable to all fishermen; be reasonably calculated to promote conservation; and, should be carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of

such privileges. The preferred alternatives in this HMS FMP are consistent with this NS.

- The workshop alternatives are consistent because they would apply to any individual that owns or operates an HMS permitted vessel that uses longline or gillnet gear and any Federally permitted shark dealers.
- With regard to time/area closures, while fishermen who live near a closure could be affected more by the closure than fishermen in other states, as explained in the NS 8 discussion below, the Madison-Swanson and Steamboat Lumps closures are not expected to have substantial economic impacts on HMS fishermen and would be closed to all HMS fishermen other than those surface trolling from May to October, regardless of what state they are from or how far they need to travel. The preferred alternative to establish closure criteria would not have direct impacts on fishermen; potential impacts of specific closures would be evaluated as those closures are considered in the future.
- Under the preferred alternative for finetooth sharks, the current overall quota of 454 mt dw for SCS and the regional and/or trimester quota distributions applies to residents of all states and would not be modified.
- The preferred alternatives for Atlantic billfish and northern albacore tuna do not discriminate between residents of different states or allocate or assign fishing privileges. Any reductions in the fishing mortality rates for these species are necessary throughout their ranges.
- The preferred BFT management measure to revise the General category time-period subquotas consistent with recent trends in BFT availability along the coast would ensure more opportunity for fishermen in all of the states to have access to the resource when it is available in their area. Even if this action were to be considered an allocation, it is fair and equitable because the fishery is a coast-wide fishery and the action would promote access to the resource throughout the BFT range. In addition, it is consistent with the BFT rebuilding program and ongoing conservation and management efforts. The other preferred BFT alternatives (*e.g.*, establishing inseason criteria) would implement overall improvements in the BFT management process with no differing impacts on residents of different states.
- The adjustment of the fishing year in conjunction with implementation of the ICCAT marlin landings limit could have minor indirect impacts that may be slightly greater in certain regions of the nation. However, none of the fishing year alternatives would directly allocate or assign fishing privileges among various U.S. fishermen, and all are intended to enhance conservation and management of the HMS fisheries.
- None of the authorized fishing gear and regulatory housekeeping preferred alternatives discriminate between residents of different states or allocate or assign fishing privileges.

NS 5 requires that conservation and management measures should, where practicable, consider efficiency in the utilization of fishery resources with the exception that no such measure shall have economic allocation as its sole purpose. The preferred alternatives in this HMS FMP are consistent with this NS.

- The preferred workshop alternatives would not directly impact the efficiency in the utilization of the fishery resources. To the extent that the workshops teach fishermen how to remove protected resources from fishing gear in an efficient manner that maximizes survival and improve species identification, the workshops could have some benefits.
- The preferred Madison-Swanson and Steamboat Lumps closures are not expected to have significant economic impacts, and no direct impacts are expected from the closure criteria. Neither this alternative nor the criteria alternative is expected to change efficiency in the utilization of fishery resources.
- The preferred alternatives for northern albacore tuna and finetooth sharks would have no impacts on efficiency in the short-term as they would not implement new regulatory requirements on the fisheries at this time.
- The preferred billfish alternatives consider efficiency, where practicable, by tailoring the circle hook and bait requirements, as opposed to applying them across the whole fishery, and by proposing a mechanism for implementing inseason regulatory adjustments.
- The preferred BFT inseason action alternative would consolidate criteria used for inseason and annual adjustments, and thus, could increase consistency in the inseason criteria and transparency in the management process. Having the flexibility to modify the regulations in response to variation in the fishery and the resource could also promote efficiency. One of the preferred BFT alternatives would ensure that excessive amounts of quota do not accumulate in any particular domestic quota category by allowing NMFS to limit the amount of underharvest that can be carried forward, if warranted. Excess quota would be rolled over to the Reserve or to other domestic quota categories. Thus, the alternative provides reasonable fishing opportunities, while ensuring efficient use of the resource.
- The preferred fishing year alternative should improve efficiency and transparency of managing HMS fisheries.
- The authorized fishing gear preferred alternatives consider efficiency, where practicable, and would allow fishermen some flexibility in rigging gears for speargun and buoy gear as well as flexibility in their choices of cockpit gear. This flexibility should allow different segments of the HMS fisheries to choose or rig gears in ways that maximize their efficiency in a particular area.
- The preferred alternatives for regulatory housekeeping are not expected to impact the efficiency of using the fishery resources. Requiring that the dorsal and anal fins remain on the shark could alter the efficiency of the fishery slightly, but should improve the data and conservation of the fishery and resource. In addition, the option

of submitting dealer reports over the internet, once such a system is available, could provide a more efficient and flexible method of reporting.

NS 6 states that conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches. The preferred alternatives for this HMS FMP are consistent with this NS.

- The workshop alternatives provide that the workshop requirements could be adjusted through a regulatory framework adjustment. Such adjustments would account for any unexpected changes in the HMS fisheries attributable to fishing practices, gear, effort, or the improved knowledge of safe-handling and release methods.
- The preferred alternative for time/area closure criteria specifically takes into account variations in fisheries and fishery resources by providing criteria to be applied in modifying or adding new closures either through the framework or FMP amendment process. The Madison-Swanson and Steamboat Lumps closures take variations in fisheries into account by allowing surface trolling during prime fishing months.
- The preferred alternatives for finetooth sharks and northern albacore tuna would not affect any previous measures implemented to protect against social, economic, or ecological uncertainties that may arise in HMS fisheries.
- The preferred alternatives for the directed Atlantic billfish fishery provide needed flexibility in allowable hooks and baits, as well as in both the mechanism for implementing inseason regulatory adjustments, and the measures considered for inseason adjustment.
- The preferred BFT management measures acknowledge the variation in the BFT fishery, resource, and catches, and improve NMFS' ability to account for these variations and make changes to the management actions to ensure a reasonable fishing opportunity throughout the management unit. The preferred management measures also provide the industry with consistent baseline annual quotas from year to year until ICCAT modifies the recommended U.S. BFT TAC. The preferred BFT management measures continue to provide a reserve to compensate for uncertainty in estimating domestic harvest, stock conditions, or environmental factors. Furthermore, one of the preferred alternatives allows for the transfer of unharvested quota to cover the overharvest of another gear category, compensating for the uncertainties in these fisheries. The preferred inseason action criteria for BFT would continue to allow NMFS to account for variability in the fishery or resource and provide for greater consistency in the factors considered for all inseason actions.
- Changes in the management cycle timeframe would not impact existing regulations that have been implemented to protect against social, economic, or ecological uncertainties, consistent with ICCAT recommendations.
- The preferred authorized fishing gear alternatives would allow for variability in the fishery and resource by allowing fishermen some flexibility in rigging gears for speargun and buoy gear as well as flexibility in their choices of cockpit gears. This flexibility would allow segments of the HMS fisheries to choose or rig gears

according to the current limits and season. Some of the regulatory housekeeping alternatives allow for more flexibility and variation. For example, clarifying the definitions for pelagic and bottom longline fishing gear should alleviate some confusion regarding bottom longline fishing in pelagic longline closed areas. Most of the preferred alternatives for regulatory housekeeping do not address variations or contingencies in the fishery.

NS 7 states that conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication. The preferred alternatives in this HMS FMP duplicate other regulations.

- The costs associated with the preferred workshop alternatives include possible lost fishing time or other opportunity costs and travel to the workshops. These costs would be mitigated by holding workshops when fishing activity is anticipated to be slow and in locations in the vicinity of the longline and gillnet communities as well as in the vicinity of shark dealers. Nevertheless, time spent at these workshops will provide valuable skills that may offset some of the costs associated with attending the workshops. Linking the workshop certification to the permit renewal would facilitate enforcement of the requirements. The workshop alternatives are not anticipated to shift costs to another sector, such as a local government or the private sector. NMFS considered the burden of training owners, operators, and crew of vessels using longline and gillnet gear in the analysis of alternatives. However, the bycatch mortality reduction benefit of training the larger universe of owners, operators, and crew does not appear to outweigh the costs (*e.g.*, administrative burden, lost fishing, and time away from other responsibilities) of requiring everyone to attend. Thus, NMFS is preferring to require just the owners and operators of those vessels, not the crew, to attend the workshops. However, members of the larger universe other than owners and operators would be allowed to attend workshops on a voluntary basis. The same analyses were true for the HMS identification workshops. Training all of the HMS dealers, anglers, and commercial vessel owners and operators versus just the shark dealers would not improve the shark data collection enough to justify the costs.
- The preferred alternatives for time/area closures are expected to have minimal costs. Few HMS commercial longline fishermen reported fishing in the complementary Madison-Swanson and Steamboat Lumps closures and surface trolling would be allowed during prime recreational fishing months. NMFS does not expect any costs to be associated with the criteria for time/area closures.
- The preferred alternatives for the directed Atlantic billfish fishery may result in minor, short-term compliance costs, due to the initial purchase of circle hooks. However, in the long-term, there may be *de minimus* economic benefits to recreational fishermen because circle hooks typically cost less than J hooks. Additionally, allowing the continued use of J-hooks outside of tournaments and with artificial baits in tournaments minimizes costs by allowing fishermen to utilize their existing stockpile of J-hooks. Delaying the effective date also provides recreational

fishermen a chance to utilize existing stockpiles of J-hooks, and allows fishermen to replace J-hooks which they would have used with natural baits in tournaments with lower cost circle hooks over time.

- The preferred BFT alternatives take into consideration recent trends in BFT availability and attempt to provide greater fishing opportunities for all fishermen in this coast-wide fishery. Further, the preferred alternatives are also aimed at improving the efficient utilization of the available quota by improving NMFS' ability to make inseason adjustments and allowing NMFS to be responsive to the annual and seasonal variability in the fishery. While there may be some costs associated with revising the General category time-period and subquota allocations (*e.g.*, less quota would be available for fishermen in northern states), as discussed further under NS 8, any economic impacts are expected to be minor.
- The preferred alternative for adjusting the fishing year appears to minimize costs while maximizing benefits.
- The preferred alternatives for northern albacore tuna, finetooth sharks, authorized gears, and most of regulatory housekeeping do not impose any costs on the fishermen. A few of the regulatory housekeeping alternatives would impose minimal costs on fishermen. The requirement to leave the anal and second dorsal fin on the shark could have some minor impact on the cost of fishing but these impacts would be less than the impact of requiring all fins to remain on the shark.

NS 8 states that conservation and management measures shall, consistent with the conservation requirements of the Magnuson-Stevens Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to provide for the sustained participation of such communities, and to the extent practicable, minimize adverse economic impacts on such communities. The preferred alternatives for this HMS FMP are consistent with this NS.

- The preferred alternatives for workshops are not anticipated to have a negative impact on the sustained participation of any HMS fishing communities. Workshops would be held near these communities and at times when the fishing activities are slow in order to minimize, to the extent practicable, any negative economic or social impacts.
- The preferred time/area closure alternatives of establishing criteria and implementing complementary closures would not have significant, adverse economic impacts or impacts on fishing communities. Few commercial sets have been reported set in the Madison-Swanson and Steamboat Lumps closures in recent years and surface trolling are allowed during prime recreational fishing months.
- The preferred alternatives for finetooth sharks and northern albacore tuna are not expected to result in any adverse social or economic impacts to fishing communities because no new regulations are being implemented as a result of this action.
- While some communities may experience heightened localized impacts if angler behavior substantially changes, the preferred alternatives for the directed billfish fishery are anticipated to minimize any economic impacts on the fishery as a whole as well as sustain participation in the directed Atlantic billfish fishery.

- The Atlantic BFT management measures are designed to ensure a reasonable fishing opportunity is provided throughout the BFT range. There may be some negative economic impacts for fishermen participating in the early portion of the season because this action would reduce the current General category time-period and subquota allocations for the early season (*e.g.*, when BFT are available for fishermen off northern states) in order to provide for a winter fishery for fishermen off southern states. However, any such impacts are expected to be minor, and NMFS, in developing BFT alternatives, took into consideration traditional fishing patterns in New England as well as recent trends in BFT availability. The other preferred alternatives would adjust BFT management procedures and are not expected to have any adverse economic or social impacts.
- Changing the fishing year for HMS fisheries to make them consistent with the calendar year is not expected to have a negative impact on the sustained participation of any HMS fishing communities. However, due to the combination of the 250-fish limit on billfish and this preferred alternative, some communities may notice short-term impacts and may need to adjust to either earlier tournaments, if possible, or catch-and-release only tournament. Communities that rely on more than billfish tournaments are unlikely to notice any impacts.
- Authorizing additional fishing gears and the preferred regulatory housekeeping alternatives are not anticipated to have a negative impact on the sustained participation of any HMS fishing community.

NS 9 states that conservation and management measures shall, to the extent practicable, minimize bycatch, and to the extent that bycatch cannot be avoided, minimize the mortality of such bycatch. The NS 9 guidelines provide that, when determining whether actions minimize bycatch and bycatch mortality to the extent practicable, several factors should be considered, consistent with other national standards and maximization of net benefits to the Nation. NMFS has taken those factors into consideration throughout the HMS FMP.

- The protected species workshops for pelagic longline, bottom longline, and gillnet fishermen are aimed at reducing the bycatch mortality of sea turtles, smalltooth sawfish, and other non-target species. These workshops would train the owners and operators of vessels using longline and gillnet gear in the safe release and disentanglement protocols, enabling the owners and operators to return these species to the sea alive, thus minimizing bycatch mortality to the extent practicable.
- NMFS conducted extensive analyses of a wide range of alternatives to see if further time/area closures or modifications of existing time/area closures would provide ecological benefits to all bycatch species. However, the analyses indicated that additional or modified closures would not provide benefits for all bycatch species; closures or combinations of closures may benefit certain species with adverse impacts on others. Additionally, the analyses are based on J-hook data (these hooks are no longer allowed in the pelagic longline fishery) and NMFS is currently evaluating the effect of circle hooks on all bycatch species. At this time, NMFS is preferring the Madison-Swanson and Steamboat Lumps closures to complement existing measures

in the Gulf of Mexico, and a closure criteria alternative that would provide greater transparency in the evaluation of new or modified closures. Complementary closures are expected to minimize bycatch on gag grouper and other reef-dwelling species.

- The preferred alternative for northern albacore tuna is not expected to change bycatch rates of any species because NMFS is not taking any regulatory actions in this FMP for this issue.
- The preferred alternative for finetooth sharks would not result in any significant modifications to fishing gear, effort, or practices currently employed for finetooth sharks in the short term because NMFS is not taking any regulatory actions in this FMP for this issue. Furthermore, the alternative would identify other fisheries that may be contributing to bycatch of finetooth sharks, in which case the agency may recommend measures or seek collaborative efforts to reduce this bycatch.
- The preferred alternatives for the directed billfish fishery are not expected to increase bycatch of Atlantic billfish, as Atlantic billfish released by anglers under the catch-and-release program established for Atlantic billfish are not considered bycatch. The preferred alternatives may substantially reduce the post-release mortality of Atlantic billfish in the directed billfish fishery, consistent with the intent of NS 9. To the extent that using circle hooks in tournaments reduces the bycatch of other species, the preferred alternatives may minimize the bycatch of other fish or marine life.
- The preferred alternatives for BFT, for modifying the fishing year, and for authorizing additional gears are not expected to modify the interaction with bycatch, or to change the bycatch mortality associated with the Atlantic HMS fisheries because overall effort across the fishery is not expected to change as a result of the actions in this Consolidated HMS FMP. Due to the nature of the gear, NMFS expects little to no bycatch in the recreational speargun fishery. Additionally, available handline data indicate that buoy gear would likely have low bycatch and limited dead discards.
- None of the preferred alternatives for regulatory housekeeping are expected to increase or decrease bycatch rates substantially. The species composition requirement in the definition between pelagic and bottom longline could increase bycatch slightly if fishermen catch greater than five percent of a particular species that is not on the list for the gear they are using. NMFS expects this scenario is unlikely given reported landings and has modified the list of indicator species based on public comment.

NS 10 states that conservation and management measures shall, to the extent practicable, promote the safety of human life at sea. The preferred alternatives in this HMS FMP are consistent with this NS.

- No impact to safety of life at sea is anticipated to result from the workshop preferred alternatives. While the preferred workshop alternatives do not require fishing vessels to carry additional gear, the owner and operator would be trained in the proper handling of the gear used for the safe-handling and disentanglement procedures for

protected resources. The safe-handling and release gear is light enough that it should not have any impact on the stability of the vessel.

- The preferred alternatives for time/area closures, northern albacore tuna, finetooth sharks, the directed billfish fishery, the fishing year modifications, and the regulatory housekeeping items are not expected to have any effects on safety of human life at sea. None of those preferred alternatives would require fishermen to travel greater distances, fish in bad weather, or otherwise fish in an unsafe manner.
- The preferred management measures for Atlantic BFT are not anticipated to have an impact on safety of life. The BFT General category is managed by time-period subquotas in order to ensure that BFT is available according to traditional and historical fishing patterns and to allow for a winter fishery in the South Atlantic. The preferred alternatives provide an opportunity to fish throughout the BFT range when the tuna are present and available and do not require fishing vessels to carry additional gear. The preferred management alternative was designed to avoid “derby” style fishing and reflects the historical fishing patterns for the New England region and provides an opportunity for the South Atlantic tuna fishermen to participate in the fishery when the tuna have migrated into the area.
- None of the authorized gear alternatives are expected to have an impact on safety of life at sea, partly because fishermen are already using these gears in HMS or other fisheries. However, these gears, such as speargun and secondary cockpit gears, can be dangerous and may create additional hazards to fishermen because they have sharp points and trailing lines that could entangle fishermen. Alternative H2 (authorize recreational harvest of BAYS tunas with speargun gear) may result in fishermen traveling greater distances to find productive fishing grounds, if the speargun and rod and reel sectors compete for fishing areas. While AP members have expressed concern for the safety of individuals using speargun gear, given the safety equipment the fishermen use and their ability to use this gear safely in other fisheries around the world, NMFS does not expect the authorization of this gear to create problems with safety. Alternative H7 clarifies the allowable use of secondary cockpit gears. This alternative would also promote safety at sea by allowing fishermen to use implements specifically designed to gain control of, and subdue, large fish that were captured with authorized primary gears when they are brought alongside the vessel.

11.2 Ongoing Management and the Procedure for Adjusting Management Measures

The 1999 FMP, Amendment 1 to the 1999 FMP, and Amendment 1 to the Billfish FMP outlined the process for amending or modifying regulations via regulatory framework adjustment or FMP amendment. The actions that can be done via framework adjustment are also listed in 50 CFR part 635.34, and currently the list includes:

- actions to implement ICCAT recommendations, as appropriate;
- domestic quotas;
- Atlantic tunas Purse Seine category cap on BFT quota;

- commercial retention limits;
- recreational retention limits;
- maximum sustainable yield or optimum yield levels based on the latest stock assessment or updates in the SAFE report;
- species size limits;
- permitting and reporting requirements;
- monitoring and tracking programs (*e.g.*, landing tag);
- composition of the species groups;
- fishing year or season;
- time/area restrictions;
- target catch requirements;
- gear prohibitions, modifications, or use restrictions;
- effort restrictions;
- essential fish habitat;
- any shark species management group based on additions to or removals from the prohibited species list;
- classification system within shark species groups;
- shark management regions and the regional quotas; and,
- quota allocations between shark fishing seasons.

Additions to the list as a result of this Final Consolidated HMS FMP would include:

- changes to the Atlantic blue and white marlin annual landings limit;
- additions, changes, or modifications to time/area closures; and
- workshop requirements.

11.3 Consideration of Magnuson-Stevens Act Section 304(g) Measures

Section 304(g) of the Magnuson-Stevens Act sets forth requirements specific to the preparation and implementation of an FMP or FMP amendment for HMS. See 16 U.S.C. 1854(g) for full text. The summary of the requirements of Section 304(g) and an explanation of how NMFS is consistent with these requirements are below. The impacts of each of the preferred management measures and how they meet these requirements are described in more detail in Chapters 2 and 4 of this document.

1. Consult with and consider the views of affected Councils, Commissioners, and advisory groups.

NMFS provided the five Atlantic Fishery Management Councils, the Gulf and Atlantic States Marine Fisheries Commissions, and members of the HMS and Billfish Advisory Panels copies of the Issues and Options Paper (released in April 2004), the Predraft of the Consolidated HMS FMP (released in February 2005), and the draft Consolidated HMS FMP (released in August 2005). Additionally, NMFS presented the Issues and Options paper to three of the Regional Fishery Management Councils, the Atlantic States Marine Fisheries Commission, and the HMS and Billfish Advisory Panels; presented the Predraft to all five of the Atlantic Regional Fishery Management Councils, both the Atlantic and Gulf States Marine Fisheries Commissions, and the Advisory Panels; and, presented the draft Consolidated HMS FMP to all five Atlantic Regional Fishery Management Councils, the Atlantic and Gulf States Marine Fisheries Commissions, and the Advisory Panels. NMFS also engaged in active dialog with some of the Regional Fishery Management Councils during the public comment period on the draft Consolidated HMS FMP. Written comments and comments received during the presentations were considered at all stages when preparing this Final Consolidated HMS FMP. NMFS will send the Final Consolidated HMS FMP/FEIS to consulting parties including all five of the Atlantic Regional Fishery Management Councils, both the Atlantic and Gulf States Marine Fisheries Commissions, and the HMS and Billfish Advisory Panels.

2. Establish an advisory panel for each FMP.

NMFS established the HMS and Billfish Advisory Panels in 1997 as part of the process for drafting the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks and Amendment 1 to the Atlantic Billfish FMP. As part of this Final Consolidated HMS FMP, NMFS intends to combine those Advisory Panels into one panel that would still provide representation between all user groups and from different geographic locations.

3. Evaluate the likely effects, if any, of conservation and management measures on participants in the affected fisheries and minimize, to the extent practicable, any disadvantage to U.S. fishermen in relation to foreign competitors.

Throughout this document NMFS has described the effects of the management measures and any impacts on U.S. fishermen. None of the preferred management measures in this Final Consolidated HMS FMP are expected to disadvantage U.S. fishermen in relation to foreign competitors. Some of the preferred alternatives could aid U.S. fishermen by providing a more open and flexible fishing period (*e.g.*, changes to BFT management adjustments) or authorizing additional gear types (*e.g.*, speargun or buoy gear). Some of the non-preferred alternatives may provide potential economic benefits (*e.g.*, modifying time/area closures) or, conversely, adverse economic impacts (*e.g.*, additional time/area closures or prohibition of pelagic longline gear) to U.S. fishermen; however, NMFS has described the reasons why it is not preferring those alternatives. If it becomes necessary to implement those alternatives or types of alternatives in the future, NMFS will minimize, to the extent practicable, any disadvantage to U.S. fishermen in relation to foreign competitors.

4. *With respect to HMS for which the United States is authorized to harvest an allocation, quota, or fishing mortality level under a relevant international fishery agreement, provide fishing vessels with a reasonable opportunity to harvest such allocation, quota, or at such fishing mortality level.*

The preferred management measures should not prevent U.S. fishermen from a reasonable opportunity to harvest the quota or landing limit allocated by ICCAT. In the case of Atlantic billfish, NMFS prefers to implement the 250-marlin landing limit and require the use of circle hooks by HMS permitted fishermen when deploying natural baits or natural bait/artificial lure combinations in billfish tournaments. The final rule would codify the U.S. landing limit in U.S. regulations, as established by ICCAT. The ICCAT marlin landing limit alternative was specifically crafted in a manner to allow maximum utilization of the U.S. landing limit without exceeding it and, thus, is both intended and anticipated to provide U.S. fishermen reasonable opportunity to land the full 250 marlin landing limit. For BFT, NMFS prefers alternatives that would ensure more opportunity for fishermen in all of the states to have access to the resource and that would modify the manner in which inseason actions are taken to ensure the quota is taken in an equitable fashion throughout the Atlantic. Regarding swordfish, the preferred alternatives would clarify the definition of handline and authorize the use of buoy gear for targeting swordfish. This could allow U.S. fishermen greater opportunities to harvest the available quota. Unless effort in the swordfish fishery increases, it is unlikely that, in the near future, the United States would catch the entire swordfish quota as adjusted for recent underharvests. In addition, NMFS is not preferring any new time/area closures at this time except for complementary time/area closures to protect gag grouper. These complementary measures would affect all HMS fishermen; however, few HMS sets were reported in those areas. Thus, NMFS does not expect the complementary closures to have any impact on the ability of HMS fishermen to take their ICCAT quotas. Furthermore, NMFS is preferring criteria that would allow NMFS to modify the existing closures and could allow for some of the areas to be re-opened thus providing greater opportunity for U.S. pelagic longline fishermen to take ICCAT quotas, in the future.

5. *Review, on a continuing basis, and revise as appropriate, the conservation and management measures included in the FMP.*

NMFS continues to review the need for any revisions to the existing regulations for HMS. This Final Consolidated HMS FMP is the culmination of one of those reviews.

6. *Diligently pursue, through international entities, comparable international fishery management measures with respect to HMS.*

NMFS continues to work with ICCAT, and other international entities such as CITES, to implement comparable international fishery management measures. To the extent that some of the management measures are exportable, NMFS works to provide foreign nations with the techniques and scientific knowledge to implement similar management measures or conduct experiments to test similar gear modifications.

7. *Ensure that conservation and management measures under this subsection:*
 - a. *Promote international conservation of the affected fishery;*

- b. Take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;*
- c. Are fair and equitable in allocating fishing privileges among United States fishermen and do not have economic allocation as the sole purpose; and*
- d. Promote, to the extent practicable, implementation of scientific research programs that include the tagging and release of Atlantic HMS.*

All of the objectives of the Final Consolidated HMS FMP, particularly 1, 2, 4, 5, 6, 8, 9, 12, 14, and 16 (see Section 1.3), indicate how NMFS promotes the international conservation of the affected fisheries in order to obtain optimum yield while maintaining traditional fisheries and fishing gear and minimizing economic impacts on U.S. fishermen. All of the combined management measures in this Final Consolidated HMS FMP are expected to meet these goals.

12.0 LIST OF PREPARERS

The development of both the Draft and Final consolidated HMS FMP involved input from many people within NMFS, NMFS contractors, and input from constituent groups including the HMS and Billfish Advisory Panels. Staff and contractors from the Highly Migratory Species Management Division, in alphabetical order, who worked on this document or the documents resulting in this one include:

Karyl Brewster-Geisz	Othel Freeman	Ron Rinaldo
Megan Caldwell	Kathy Goldsmith	Christopher Rogers
Mike Clark	Anthony Kaufman	Margo Schulze-Haugen
Craig Cockrell	Sari Kiraly	George Silva
Carol Douglas	Brad McHale	Jeron Stannard
Joe Desfosse	Sarah McTee	Dianne Stephan
Russ Dunn	Mark Murray-Brown	Heather Stirratt
Greg Fairclough	Rick Pearson	Jackie Wilson
	Chris Rilling	

The development of this document also involved considerable input from other staff members and Offices throughout NOAA including, but not limited to:

- Other Divisions within the Office of Sustainable Fisheries (Barbara Comstock, John Dunnigan, Peter Fricke, Myles Raizin, Alan Risenhoover);
- The Southeast Fisheries Science Center (Heather Balchowsky, Charles Bergmann, Jose Castro, John Carlson, Enric Cortes, Sheryann Epperly, Eric Prince, John Lamkin, Arietta Venizelos, John Watson);
- The Northeast Fisheries Science Center (Nancy Kohler, Cami McCandless, Lisa Natanson);
- The Southeast Regional Office (David Bernhart, Vicki Cornish, Peter Hood, Dennis Klemm, Juan Levesque, Jennifer Lee, Shelley Norton, Carolyn Sramek);
- The Pacific Islands Regional Office (Collen Bass, Lewis Van Fossen);
- The Office of Habitat Conservation (Karen Abrams, Andy LoSchiavo, David McDuffee);
- The Office of Protected Resources in Silver Spring (David O'Brien);
- The Office of Law Enforcement (Sara Block, Jeff Radonski, Paul Raymond)
- NOAA General Counsel (Meggan Engelke-Ros, Mark Hodor, Adam Issenberg, Caroline Park, Stacey Nathanson, Constance Sathre, Frank Sprtel);
- National Ocean Service (Gerry Hovis, Sean Legeer); and
- NMFS NEPA coordinator (John Hansel).

13.0 LIST OF AGENCIES, ORGANIZATIONS, AND PERSONS CONSULTED AND TO WHOM COPIES OF THE EIS WILL BE SENT

Under 304(g)(1)(A) of the Magnuson-Stevens Act, NMFS is required to consult with affected Fishery Management Councils, ICCAT Commissioners and advisory groups, and the Advisory Panels established under the Magnuson-Stevens Act regarding amendments to the HMS FMP. As described below, NMFS provided documents and met with the consulting parties and to the Atlantic and Gulf States Marine Fisheries Commissions at various stages throughout the process. Hard copies and/or CDs of these documents were also provided to anyone who requested copies.

NMFS announced its intent to conduct an Environmental Impact Statement (EIS) and amend the two current FMPs on July 9, 2003 (68 FR 40907). On April 30, 2004 (69 FR 23730), NMFS announced the availability of an Issues and Options Paper and its intent to hold nine scoping meetings (Gloucester, MA; Ocean City, MD; New Orleans, LA; Manteo, NC; San Juan, PR; Destin, FL; Montauk, NY; Port Aransas, TX; and Cocoa Beach, FL). On May 26, 2004 (69 FR 29927), NMFS extended the comment period to July 23, 2004, and announced an additional scoping meeting (Key West, FL). During this time, NMFS presented the Issues and Options Paper to the New England, Mid-Atlantic, and Gulf of Mexico Fishery Management Councils (69 FR 22006, April 23, 2004; 69 FR 31966, June 8, 2004; and 69 FR 36066, June 28, 2004, respectively) and the Atlantic States Marine Fisheries Commission. Council and Commission members from any Council or Commission were invited to attend any of the scoping meetings and to submit comments. A summary of the major comments received during scoping was released in December 2004 and is available on the HMS Management Division webpage at <http://www.nmfs.noaa.gov/sfa/hms>. Hard copies can be requested at (301) 713-2347 or via fax at (301) 713-1917.

In February 2005, NMFS released the combined Predraft to the Consolidated HMS FMP and annual Stock Assessment and Fishery Evaluation (SAFE) Report. NMFS presented the Predraft document to the five Atlantic Regional Fishery Management Councils (February 9, 2005, 70 FR 6839; February 18, 2005, 70 FR 8345; March 1, 2005, 70 FR 9924; March 11, 2005, 70 FR 12204; April 4, 2005, 70 FR 17068), both the Atlantic and Gulf States Marine Fisheries Commissions, and to the HMS and Billfish Advisory Panels (August 25, 2004, 69 FR 52235). The comments received on the Predraft were summarized in a document released in June 2005. The Predraft and a summary of the comments received on the Predraft are available on the HMS webpage or hard copies can be requested at (301) 713-2347 or via fax at (301) 713-1917. Comments received on both the Issues and Options Paper and the Predraft were considered when drafting and analyzing the ecological, economic, and social impacts of the alternatives presented in both the Draft and Final Consolidated HMS FMPs.

On August 19, 2005, NMFS released the draft Consolidated HMS FMP and its proposed rule (70 FR 48704; 70 FR 48804). The comment period was expected to end on October 18, 2005 (60 days). Additionally, in the proposed rule, NMFS announced that 24 public hearings would be held from Massachusetts to Texas and in the Caribbean. On September 7, 2005, NMFS announced that the New Orleans, LA, and Orange Beach, AL, public hearings would be

postponed due to the impact of Hurricane Katrina (70 FR 53146). On September 12, 2005, NMFS announced that the HMS and Billfish Advisory Panels would meet in October 2005 to discuss the draft Consolidated HMS FMP. On September 23, 2005, NMFS announced that the Key West, FL, public hearing would be postponed due to the impact of Hurricane Rita (70 FR 55814). On October 5, 2005, NMFS announced that the comment period was extended until March 1, 2006 (194 days in total), in order to ensure that entities affected by Hurricanes Katrina and Rita that could be impacted by the measures in the draft Consolidated HMS FMP would have an adequate time period in which to provide comments (70 FR 58177). In this same notice, NMFS announced that the Billfish and HMS Advisory Panels meeting scheduled for October 2005 would be delayed and that the Advisory Panels would meet instead on February 21 - 23, 2006. On December 27, 2005 (70 FR 76441), NMFS announced that the hearings that were postponed would be held in January and February 2006. Due to the damage from the hurricanes, the New Orleans, LA, hearing was moved to Houma, LA. In addition to the 24 public hearings, NMFS also attended and presented the draft Consolidated HMS FMP to the five Atlantic Regional Fishery Management Councils (July 29, 2005, 70 FR 43847; August 24, 2005, 70 FR 49567; September 6, 2005, 70 FR 52989; September 16, 2005, 70 FR 54714; and September 20, 2005, 70 FR 55112) and to both the Atlantic States and Gulf States Marine Fisheries Commissions. During the public comment period, NMFS received over 3,300 form letter comments, which were mainly in regard to the proposed billfish measures, and over 200 individual written comments on all issues including the proposed billfish measures. A list of all the entities that provided written comments is available upon request. The summary of the comments and NMFS' responses is provided in Appendix D and will also be in the final rule.

On December 16, 2004, the Office of Management and Budget (OMB) issued a directive requiring Federal Agencies to have "influential scientific information" and "highly influential scientific assessments" peer reviewed. NMFS decided that certain sections of the Draft Consolidated Atlantic HMS FMP could contain "influential scientific information," which is defined as: scientific information (factual inputs, data, models, analyses, technical information, or scientific assessments) that the Agency reasonably can determine does have or will have a clear and substantial impact on important public policies or private sector decisions. As such, during the public comment period, NMFS requested three scientists who were not involved in the drafting of the Consolidated HMS FMP to review certain sections of the HMS FMP. Specifically, NMFS asked them to review the standardized bycatch reporting methodology (Sections 3.8.2 through 3.8.5 of the draft HMS FMP), time/area closure analyses (Section 4.4.2 and Appendix A of the draft HMS FMP), and essential fish habitat (EFH) sections (Chapter 10 and Appendix B of the draft HMS FMP).

Per the OMB peer review bulletin, NMFS noted that such a peer review should evaluate the clarity of hypotheses, the validity of the research design, the quality of data collection procedures, the robustness of the methods employed, the appropriateness of the methods for the hypotheses being tested, the extent to which the conclusions follow from the analysis, and the strengths and limitations of the overall product. The peer reviews were used, as appropriate, to clarify assumptions, findings, and conclusions of the bycatch, time/area closure, and EFH sections of this Final Consolidated HMS FMP. Their reviews and NMFS' responses are provided in Appendix E.

After the end of the comment period, NMFS reviewed the comments, the peer reviews,

and the analyses for the alternatives and made changes to the preferred alternatives and/or the supporting analyses, as needed, in order to address the comments received and/or other concerns that were raised during the comment period. All comments were considered when finalizing this document. NMFS also received comments from the Environmental Protection Agency (EPA) regarding the DEIS (March 31, 2006, 71 FR 16301). The DEIS received a rating of “LO,” which means lack of objection. NMFS responds to EPA’s specific comments in Appendix D with the other public comments received. Copies of this final document will be sent to the EPA regional offices, the HMS consulting parties (the affected Regional Fishery Management Councils, ICCAT Commissioners and advisory groups, and the Advisory Panels), the Atlantic and Gulf States Marine Fisheries Commissions, and other interested parties. An electronic version will also be placed on the HMS Management Division’s webpage.