

3.0 DESCRIPTION OF AFFECTED ENVIRONMENT

This Chapter serves several purposes. As part of an EIS, this Chapter describes the affected environment (the fisheries, the gears used, the communities involved, etc.). The description should provide a view on the current conditions and serves as a baseline against which to compare impacts of the alternatives. This Chapter also serves as the 2006 SAFE Report required under the guidelines for National Standard 2 of the Magnuson-Stevens Act (50 CFR 600.315(e)). The SAFE Report should provide a summary of information concerning the biological status of the stocks; the marine ecosystems in the fishery management unit; the social and economic condition of the fishing interests, fishing communities, and fish processing industries; and, the best available scientific information concerning the past, present, and possible future condition of the stocks, ecosystems, and fisheries.

3.1 Introduction to HMS Management and HMS Fisheries

Atlantic HMS fisheries are primarily managed directly by the Secretary of Commerce, who designated that responsibility to NMFS. The HMS Management Division within NMFS is the lead in developing regulations for HMS fisheries, although some actions (*e.g.*, Large Whale Take Reduction Plan) are taken by other NMFS offices outside of the HMS Management Division if the main legislation (*e.g.*, Marine Mammal Protection Act) driving the action are not the Magnuson-Stevens Act or ACTA. Because of their migratory nature, HMS fishery management necessitates management at the international, national, and state levels. NMFS primarily coordinates the management of HMS fisheries in Federal waters (domestic) and the high seas (international) while individual States establish regulations for HMS in their own waters. There are exceptions to this generalization. For example, Federal bluefin tuna regulations apply in most state waters, and Federal shark and swordfish fishermen, as a condition of their permit, are required to follow Federal regulations in all waters unless that state has more restrictive regulations (see Sections 2.3.4 and 4.3.4 for a preferred alternative that would apply the permit condition to recreationally caught HMS). Additionally, in 2005, the Atlantic States Marine Fisheries Commission agreed to develop an interstate coastal shark FMP. Once complete, this interstate FMP would coordinate management measures among all states along the Atlantic coast (Florida to Maine). NMFS is participating in the development of this interstate FMP. A brief history of HMS management is provided in sections 3.1.1 and 3.1.2.

Generally, on the domestic level, NMFS implements international agreements, as appropriate, and management measures that are required under domestic laws such as the Magnuson-Stevens Act. While NMFS does not generally manage HMS fisheries in state waters, states are invited to send representatives to AP meetings and to participate in stock assessments, public hearings, or other fora. NMFS is working to improve its communication and coordination with state agencies. In the past year, NMFS has reviewed the shark regulations of several states and has asked for some states to consider changing their regulations to become more consistent with Federal regulations. As of May 2006, this request resulted in changes and dialogs with certain states regarding the regulations such as the Commonwealth of Virginia and the State of Florida. Additionally, as a result of ASMFC's decision to develop an interstate FMP, the State of Maine opened a dialog with the NMFS regarding shark regulations. See section 3.1.5 for more information regarding state regulations by state.

On the international level, NMFS participates in the stock assessments conducted by ICCAT's SCRS and in the annual ICCAT meetings. The stock assessments and management recommendations or resolutions are listed on ICCAT's website at <http://www.iccat.es/>. NMFS also actively participates in other international bodies that could affect U.S. fishermen and the fishing industry including CITES and FAO. A summary of 2005 ICCAT accomplishments is provided in section 3.1.4 below. NMFS expects ICCAT to assess a number of stocks in 2006 including marlin, bluefin tuna, and swordfish. More information on the current status of HMS and the dates of the next ICCAT stock assessments is provided in section 3.2.

3.1.1 History of Atlantic Tunas, Swordfish, and Shark Management

This section and section 3.1.2 give a relatively brief history of the management of HMS. This history is organized by the previous FMPs, with Atlantic tunas, swordfish, and sharks in one section and Atlantic billfish in the next section. For more detail regarding the history of management, please see the original documents. Proposed rule, final rules, and other official notices can be found in the Federal Register at <http://www.gpoaccess.gov/fr/index.html>. Supporting documents can be found on the HMS Management Division's webpage at <http://www.nmfs.noaa.gov/sfa/hms>. Documents can also be requested by calling the HMS Management Division at (301) 713-2347. Section 3.1.3 provides information on more recent actions.

3.1.1.1 Pre-1999 Atlantic Tunas Management

Unless otherwise specified, the following history is a combination of a variety of sources including ICCAT recommendations, the 1999 FMP for Atlantic Tuna, Swordfish, and Sharks, and a 1996 document on the historic rationale and effectiveness of the regulations for U.S. Atlantic BFT fisheries (NMFS, 1996).

Bigeye, albacore, yellowfin, and skipjack (BAYS) tunas, as well as bluefin tuna have been exploited in the western Atlantic for many years. In the early 1900s, a sport fishery developed for small and medium tunas off New York and New Jersey, and for giant bluefin tuna in the Gulf of Maine. The rod and reel fishery expanded rapidly during the 1950s and 1960s, as hundreds of private, charter, and partyboats targeted tunas along the Mid-Atlantic coast. This recreational fishery continues today from Cape Hatteras to the Canadian border. In addition, it is locally important in the Straits of Florida. Sport catches of BAYS, particularly yellowfin tuna, are also made in the Gulf of Mexico.

Until the late 1950s, the U.S. commercial fishery for tunas employed mostly harpoons, handlines, and traps. There was no commercial market for bluefin tuna, and giant bluefin tuna (greater than 310 pounds (lb)) were regarded as a nuisance because of the damage they caused to fishing gear. Much of the bluefin tuna catch was incidental to operations targeting other species. In 1958, commercial purse seining for Atlantic tunas began with a single vessel in Cape Cod Bay and expanded rapidly into the region between Cape Hatteras and Cape Cod during the early 1960s. The purse seine fishery between Cape Hatteras and Cape Cod was directed mainly at small and medium bluefin tuna, and at skipjack tuna, all for the canning industry. North of Cape Cod, purse seining was directed at giant bluefin tuna. A pelagic longline fishery for Atlantic

tunas also developed rapidly during the 1960s, comprised mainly of Japanese vessels fishing in the Gulf of Mexico. Today U.S. pelagic longline vessels target bigeye and yellowfin tuna, and catch bluefin tuna incidentally.

The U.S. handgear fishery for Atlantic tunas is mainly a summer through early winter fishery. The recreational tuna fishery takes place mainly in the Mid-Atlantic region through the Gulf of Mexico (GOM). Private vessels targeting tuna for recreational purposes only are permitted in the Angling category, while the charter/headboats targeting tunas are permitted in the Charter/Headboat category. Many fishermen who might normally consider themselves “recreational” fishermen participate in the General category in northeast waters during the summer and fall and are classified as commercial fishermen. Recently, a commercial bluefin tuna fishery has developed off of some south Atlantic states, particularly the State of North Carolina, in the early winter. General category permit holders may sell tuna, and specifically bluefin tuna greater than 73 inches. A 1998 regulation prohibiting the retention of bluefin tuna less than 73 inches by fishermen in the General category clarified the distinction between the commercial and recreational fisheries. The commercial handgear fishery for bluefin tuna occurs mainly in New England, with vessels targeting fish using handline, rod and reel, and harpoon.

Bluefin Tuna

Peak yields of bluefin tuna from the western Atlantic (about 8,000 to 19,000 metric tons (mt) whole weight (ww)) occurred between 1963 and 1966 when much of the catch was taken by Asian longline vessels off Brazil. During the late 1960s and 1970s, annual yields averaged about 5,000 mt ww. High catches of juvenile bluefin tuna were sustained throughout the 1960s and into the early 1970s. During the 1960s and 1970s, a North American purse seine fishery for juveniles and the longline fishery, mostly Japanese vessels, usually took 70 to 80 percent of the yield and recreational fisheries usually took 10 percent. By 1973, the United States and other nations began to express concern about the decrease in the abundance of bluefin tuna. In response to this concern, in 1974, ICCAT recommended a minimum size limit of 6.4 kg (14 lb) and recommended that all countries limit fishing mortality to recent (at that time) levels for one year. As a result, the United States limited U.S. harvest by imposing quotas and size limits. In the late 1970s, approximately 10,000 giant bluefin tuna were taken in one year alone from the Gulf of Mexico.

After conducting a series of stock assessments, the ICCAT Standing Committee on Research and Statistics (SCRS) recommended in 1981 that catches of western Atlantic bluefin tuna be reduced to as near zero as possible to stop the decline of the stock and established a 800 mt ww total allowable catch (TAC). This recommendation also prohibited fishing effort in the western Atlantic from transferring to the eastern Atlantic (the stocks were split at 45° W longitude through 10° N latitude before moving to 25° W longitude at the equator). At the 1982 meeting, the TAC was increased to 2,660 mt ww, to be split proportionately between the relevant Contracting Parties. This level was maintained through 1991. Also at the 1982 meeting, ICCAT recommended that there be no directed fishery on bluefin tuna spawning stocks in the western Atlantic in spawning areas such as the Gulf of Mexico.

By the late 1980s, high ex-vessel prices and the increased importance of the Japanese market had blurred the distinction between the commercial and recreational fisheries for bluefin

tuna and much of the traditionally recreational catch for medium and giant bluefin tuna was being sold for shipment to Japan. In 1992, NMFS responded by banning the sale of school, large school, and small medium bluefin tuna (27 inches to less than 73 inches curved fork length).

At the 1991 meeting, ICCAT recommended additional measures to prevent further declines in the western Atlantic bluefin tuna stock, including a ten percent reduction in the total allowable catch. In 1993, the western Atlantic bluefin tuna quota was reduced further from 2,394 mt ww to 1,995 mt ww in 1994 and 1,200 mt ww in 1995. At the 1991 meeting, the United States was allocated 693 mt ww per year for both 1993 and 1994. This 1991 recommendation also increased the minimum size to 30 kg (66 lb) or 115 cm (45 in) fork length with a tolerance level of eight percent. Fishermen who caught fish smaller than this size were encouraged to tag and release them.

In 1992, NMFS established base quotas for each permit category in the bluefin tuna fishery based upon the historical share of catch in each of these categories during the period 1983 to 1991. These quotas were used in 1992, 1993, and 1994, with overharvests and underharvests added and subtracted as required by ICCAT, as well as some inseason transfers. At the 1992 ICCAT meeting, ICCAT recommended that by September 1, 1993, all bluefin tuna imports into a Contracting Party be accompanied by an ICCAT Bluefin Tuna Statistical Document that included, among other things, the area that the fish was harvested in, the gear, and a validation by a government official of the flag state of the vessel that harvested the tuna.

The SCRS projections in 1994 indicated that the stock could support higher quota levels and still begin to rebuild, albeit more slowly. Based on the new stock assessment, ICCAT members adopted a recommendation to increase the annual bluefin tuna total allowable catch in the western Atlantic Ocean from 1,995 to 2,200 mt ww. The share allocated to the United States was set at 1,311 mt ww. This allocation reflected trends in fleet size, effort and landings by category, as well as the ICCAT recommendation which specifies that data should be collected for the broadest range of size-classes possible, given size restrictions. At the 1996 meeting, ICCAT recommended an annual western Atlantic bluefin tuna TAC of 2,354 mt ww for 1997 and 1998. The annual quota allocated to the United States for 1997 and 1998 was 1,344 mt ww.

In 1998, the Commission adopted a 20-year Rebuilding Program for the western Atlantic bluefin management area (ICCAT Ref. 98-07) aimed at rebuilding to the stock size that will produce Maximum Sustainable Yield (MSY) by 2018 with a 50 percent or greater probability. The Program states that the TAC for the west would only be adjusted from the 2,500 mt ww level adopted for 2003 – 2004 if SCRS advises that (a) a catch of 2,700 mt ww or more has a 50 percent or greater probability of rebuilding or (b) a catch of 2,300 t or less is necessary to have a 50 percent or greater probability of rebuilding. According to the Program, the MSY rebuilding target can be adjusted according to advice from SCRS. In 2002, the Commission set the annual TAC, inclusive of dead discards, for the western Atlantic management area to 2,700 mt ww, effective beginning in 2003 (ICCAT Ref. 02-07). The current U.S. share of this TAC equals 1,496 mt ww inclusive of 25 mt ww for pelagic longline incidental catch in the Northeast Distant Statistical Reporting area and an allowance for dead discards of an additional 68 mt ww. If there are dead discards in excess of this allowance, they must be counted against the following year's quota. If there are fewer dead discards, then half of the underharvest may be added to the

following year's quota while the other half is conserved. The recommendation also allowed four years to balance the eight percent tolerance for bluefin tuna under 115 cm (young school and school bluefin tuna).

Bigeye Tuna

ICCAT adopted a minimum size of 3.2 kg (7 lb) with a 15 percent tolerance level for undersized bigeye tuna in 1979. In 1995, noting the large increases in longline and purse seine catches of bigeye tuna and the large number of undersized fish, ICCAT urged countries to reduce catches below MSY and reduce catches of undersized fish. ICCAT also asked countries that had equatorial fisheries catching undersized fish to place observers on the vessels and allow SCRS to study the data. In 1997, ICCAT issued two resolutions to limit the catch of larger vessels in the Atlantic and the catch of countries that caught more than an average of 200 mt ww between 1992 and 1996 and to collect information on the larger vessels in the fleet (those greater than 80 GRT).

Large numbers of undersized fish are still harvested by the surface fleets operating near the equator. SCRS estimates that approximately 70 percent by number of bigeye tuna landed are smaller than the minimum size, well in excess of the 15 percent tolerance. Total Atlantic bigeye tuna catch has increased substantially since 1990. ICCAT has not recommended Atlantic-wide quotas for bigeye tuna. However, in 1998, ICCAT adopted two new management recommendations that are designed to limit effort in commercial fisheries for bigeye tuna throughout the Atlantic. ICCAT also adopted a resolution in 1998 that tasks SCRS with developing stock rebuilding scenarios for bigeye.

Purse seine fleets in the east Atlantic have developed a fishery that targets schools of tuna near artificial floating objects, also known as fish aggregating devices (FADs). This method of fishing has increased harvesting efficiency and contributed to excessive catch of undersized bigeye tuna. Favorable oceanographic conditions as well as the extensive use of sonar and deeper nets have also contributed to increased bigeye tuna harvest in recent years. In 1998, ICCAT established a mandatory time/area closure for purse seiners using fish aggregating devices in equatorial waters.

Albacore Tuna

Although albacore tuna harvests in the north Atlantic have declined since 1970, catch and effort in newer surface fisheries have increased since 1987. In 1997, SCRS determined that North Atlantic albacore tuna was at or near a level of full exploitation. In 1998, ICCAT adopted a recommendation to limit fishing capacity to the number of vessels in the directed albacore tuna fishery during the years of 1993 to 1995 and for countries to submit a list of vessels fishing for northern albacore. In 2003, ICCAT recommended a TAC of 34,500 mt ww for 2004, 2005, and 2006, of which the United States is allocated 607 mt ww per year.

ICCAT began managing southern Albacore when, in 1994, the SCRS found that catches of southern Albacore exceeded MSY. At this time, ICCAT recommended that countries limit the catch to 90 percent of previous levels. In 1996, ICCAT recommended a 22,000 mt ww quota for all countries fishing below 5° N latitude with the goal of achieving MSY by 2005. In 1998, this TAC was increased to 28,200 mt ww. In 2003, SCRS determined that southern albacore is not

overexploited at current fishing levels. Thus, SCRS recommended that the TAC be 29,200 mt ww.

Yellowfin Tuna

Since the early 1970s, ICCAT has expressed concern over the high proportion of juvenile yellowfin tuna that are landed. In 1972, ICCAT passed a recommendation that prohibited the landing of yellowfin tuna less than 3.2 kg (7 lb). This recommendation also included an allowed 15 percent tolerance level on this minimum size. In 1995, an estimated 50 percent by number of yellowfin tuna landed were less than the minimum size. As in the bigeye tuna fisheries, these high catches of juveniles are largely a result of the use of FADs.

Atlantic yellowfin tuna landings reached a record high in 1990, primarily due to increased landings in the east Atlantic. Since 1990, catches across the Atlantic have declined somewhat and then remained stable. In 1993, ICCAT recommended that there be no increase in the level of effective fishing effort over 1992 levels.

Skipjack Tuna

The stock structure of Atlantic skipjack tuna is uncertain; separate management units are maintained in the eastern and western Atlantic. Skipjack tuna fisheries have changed significantly since 1991, with the introduction of fishing on floating objects and the expansion of the purse seine fishery towards the western Atlantic and closer to the equator. SCRS has noted that additional research on skipjack tuna is needed. At this time, there are no ICCAT recommendations or resolutions specific to skipjack tunas.

All Tunas

In April 1999, NMFS published the Final Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (1999 FMP). This was the first FMP for Atlantic tunas. Some of the specific tuna management measures included:

- Prohibition of pelagic driftnets for tunas;
- Implementation of the BFT ICCAT Rebuilding Program;
- Establishment of category-specific percent BFT quota allocations;
- Implementation of a Cap on the Purse Seine category of 250 mt ww for BFT (later rescinded);
- Time/area closure in Mid-Atlantic to reduce bluefin tuna dead discards;
- Establishment of the foundation for developing an international 10-year rebuilding program for bigeye tuna;
- Establishment of a recreational retention limit of three yellowfin tuna per person per day; and
- Establishment a fishing year of June 1 to the following May 31.

3.1.1.2 Pre-1999 Atlantic Swordfish Fishery and Management

Unless otherwise specified, the following paragraphs regarding the early history of the swordfish fishery summarize information found in the Source Document to the 1985 Atlantic Swordfish Fishery Management Plan (SAFMC, 1985a). The summary of more recent history is a combination of information from the 1999 Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks and various ICCAT recommendations.

The recreational fishery for swordfish has existed since the 1920s when the fish were taken mainly by handline trailing a baited hook or occasionally by rod and reel or harpoon. This early fishery was located from Massachusetts to New York and, because it relied on locating the fish and enticing it to strike, occurred mainly during the day. Occasionally, an angler fishing for billfish in the Mid-Atlantic Bight would catch a swordfish.

In the 1970s, a recreational rod and reel fishery developed in Florida. This fishery borrowed techniques from longline fishermen and drifted the bait below the surface at night. Prior to the development of this fishery, fewer than 2,000 swordfish were estimated caught by all recreational fishermen over time in aggregate. In 1976, approximately 25 – 30 swordfish were taken off of Florida by rod and reel. By 1977, approximately 400 to 500 swordfish were taken. In 1978, swordfish tournaments were held in Florida, South Carolina, and New Jersey (the first ones ever for South Carolina and New Jersey) using this new technique. Due to a loss of interest by anglers and a relatively poor fishing year in 1979, there was a decrease in recreational effort in the early 1980s. In 1981 and 1982, only 86 and 53 swordfish were reported captured.

The commercial fishery began as a harpoon fishery between New York and Canada. In the 1960s, longline gear was introduced. This new gear expanded the range of the fishery down to the Gulf of Mexico and dramatically increased the amount of fish caught from approximately 2,800 mt ww in 1960 to 8,800 mt ww in 1963. Landings stabilized in the 1970s at around 5,000 mt ww.

In 1971, the U.S. Food and Drug Administration prohibited the sale of swordfish with more than 0.5 parts per million (ppm) tissue mercury content, leading to decreased landings of swordfish worldwide. In 1978, the permissible level of mercury was raised to 1.0 ppm, which rejuvenated the commercial fishery and landings increased as a result.

In the early years, there were essentially four primary components to the commercial swordfish fleet. There were approximately 25 vessels that used harpoons and spotter aircraft to catch swordfish in northern waters during the summer months. These vessels also participated in other fisheries because of the seasonal nature of the fishery. A mobile New England pelagic longline vessel component was comprised of vessels greater than 50 feet in length, and fished the Florida Straits primarily in winter and spring. Florida longline vessels, approximately 35 – 50 feet in length, fished mainly between Miami and Cape Canaveral and on the west coast of Florida. There were also Cuban-American vessels, usually between 25 to 40 feet in length, which fished between Key West and Miami. The harpoon fishery usually took female swordfish greater than 200 lb. The longline fleet usually took a mixture of male and female fish weighing between 10 and 300 lb.

By the early 1980s, the early styles of longline gear had been replaced by monofilament style gear. Additionally, the components of the fishery had changed. The larger New England vessels were still highly mobile and were now fishing from the Gulf of Mexico to the Florida Keys. The smaller Florida vessels became more mobile and began expanding into the Carolinas and the Mid-Atlantic area. Smaller vessels began to operate up and down the coast and even ventured into the edge of the Grand Banks. Many of these fishermen were either part-time swordfish fishermen who supplemented their income with charterboat fishing or full-time commercial fishermen who also fished for snappers, groupers, tilefish, and tunas.

From the late 1970s until the Atlantic swordfish FMP was approved in 1985, Federal management of swordfish was accomplished through the Preliminary Fishery Management Plan for Atlantic Billfishes and Sharks. This Preliminary FMP (43 FR 3818, January 27, 1978) was prepared by the Department of Commerce and established a number of requirements for foreign vessels fishing within the Atlantic fishery conservation zone (see section 1.1.2 for additional detail on the Preliminary FMP). Starting in June 1984, all vessels intending to catch swordfish by methods other than rod and reel were required to obtain a permit from NMFS Southeast Regional Office. By January 1985, 340 permit applications had been received (SAFMC, 1985b).

The Atlantic Swordfish FMP (February 1985) was prepared by the South Atlantic Fishery Management Council (SAFMC) in cooperation with the Caribbean Fishery Management Council (CFMC), the Gulf of Mexico Fishery Management Council (GMFMC), the Mid-Atlantic Fishery Management Council (MAFMC), and the New England Fishery Management Council (NEFMC). The final rule implementing the FMP published on August 22, 1985 (50 FR 33952; correction notice 50 FR 35563, September 3, 1985). This plan separated the swordfish fishery from the billfish fishery because, by this time, virtually all swordfish were taken commercially with longline or harpoon gear, while the majority of billfish were taken recreationally with rod and reel. However, it should be noted that there was a rapidly expanding market for marlin with increasing commercial landings from the late 1970s until the implementation of the Atlantic Billfish Fishery Management Plan in 1988. In the mid-1980s, Atlantic swordfish were considered to be in or near a state of growth overfishing.¹ The plan specified the following five management objectives (SAFMC, 1985b):

1. Maintain high landings in the form of the larger fish that are preferred in the market by controlling (reducing) the harvest of smaller swordfish.
2. Prevent or reduce growth overfishing to create a buffer against possible recruitment overfishing. This was to be done by maintaining a sufficient number of larger fish by controlling the harvest of smaller fish.
3. Obtain scientific information to continually monitor and refine the management of the swordfish fishery by an onboard technician program on a sample number of commercial boats.
4. Monitor and mitigate user group conflicts using the onboard technician program.

¹ Growth overfishing occurs when excessive numbers of small fish are harvested from a stock, thereby preventing growth to the size at which the maximum yield-per-recruit would be obtained from the stock.

5. Minimize the impacts of foreign fishing on the domestic U.S. swordfish fishery by minimizing the swordfish bycatch of foreign longliners and squid trawls consistent with the requirement to allow opportunities to harvest tuna or catch squid under a Governing International Fisheries Agreement.

Some of the management measures implemented in the Swordfish FMP were: variable season closures to control landings of small swordfish; requiring all commercially-caught swordfish to be landed whole or as carcasses; gear restrictions for closed areas; restrictions to foreign fishing for tuna longliners and squid trawlers; commercial permit requirement; observer or technician requirements; and reporting requirements for vessels in Puerto Rico or the U.S. Virgin Islands. In September 1986, NMFS published a notice stating that the variable season closures would not be implemented (51 FR 31151, September 2, 1986). In August 1990, a final rule published requiring mandatory dealer reporting (55 FR 35643, August 31, 1990).

In November 1990, ICCAT adopted its first Atlantic swordfish recommendation. This recommendation required members to reduce fishing mortality on fish weighing more than 25 kg (55 lb) by 15 percent from 1988 fishing levels and to prohibit the landing of swordfish less than 25 kg with a 15 percent tolerance level. NMFS implemented this recommendation with an emergency rule (56 FR 26934, June 12, 1991) and later a final rule (56 FR 65007; December 13, 1991).

At its 1994 meeting, ICCAT established specific TAC levels for nations fishing for both North and South Atlantic swordfish stocks (the United States was allocated 3,970 mt ww and 3,500 mt ww for 1995 and 1996, respectively). At the 1995 meeting, ICCAT adopted recommendations that allowed nations to maintain the existing minimum size for swordfish with a 15 percent tolerance of smaller fish or alternatively to abide by a smaller minimum size (119 cm or equivalent weight) with no tolerance. ICCAT also adjusted the percentages each country received of the total allowable catch levels for North Atlantic swordfish, and established measures to account for over- and underharvests. Under the 1995 recommendation, the United States receives 29 percent of the available total allowable quota. From 1995 to 1999, NMFS modified the existing U.S. quotas for Atlantic swordfish based on these recommendations and a 1996 recommendation that established the TAC at 11,300, 11,000, and 10,700 mt ww in 1997, 1998, and 1999, respectively (the United States' allocation was 3,277, 3,190, and 3,103 mt ww in 1997, 1998, and 1999, respectively).

In 1999, NMFS implemented a number of regulations that affected swordfish fishermen, including a prohibition on the use of driftnets in the swordfish fishery, and regulations to aid in tracking swordfish trade including dealer permitting and reporting for all swordfish importers, a documentation scheme that indicated the country of origin and flag of the vessel, and a prohibition on importing swordfish less than the minimum size. These regulations were codified in the first quarter of 1999. In April 1999, NMFS published the 1999 FMP. This FMP replaced the 1985 Swordfish FMP that had been drafted by the Fishery Management Councils. The 1999 FMP maintained a number of the management measures from the previous FMP including reporting requirements, annual quotas, authorized gear, and the minimum size. However, the 1999 FMP also called for the United States to negotiate an international rebuilding plan, required

that recreational landings be counted against the U.S. portion of the ICCAT-established TAC, and implemented a limited access program for commercial vessel permits.

In November 1999, ICCAT established a 10-year rebuilding program for Atlantic swordfish. This rebuilding program reduced the North Atlantic TAC (10,600, 10,500, and 10,400 mt ww for the years 2000, 2001 and 2002, respectively; 2951 mt ww for the United States in all years), established a dead discard allowance (400, 300, and 200 mt ww in 2000, 2001, and 2002, respectively; 80 percent to the United States; phased out by 2004; the TAC minus the allowance for dead discards is the amount that could be retained), restated the need for data reporting, and maintained the existing minimum size limits. In 2002, noting the improvement on the stock, ICCAT increased the overall TAC slightly while simultaneously reemphasizing the need to protect juvenile swordfish.

3.1.1.3 Pre-1999 Atlantic Shark Fisheries and Management

Unless otherwise specified, the main sources of the following history are the 1993 Atlantic Shark Fishery Management Plan and the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks.

Recreational fishing for Atlantic sharks occurs in Federal and state waters from New England to the Gulf of Mexico and Caribbean Sea. In the past, sharks were often called “the poor man’s marlin.” Recreational shark fishing with rod and reel is now a popular sport at all social and economic levels, largely because of accessibility to the resource. Sharks can be caught virtually anywhere in salt water, with even large specimens available in the nearshore area to surf anglers or small boaters. Most recreational shark fishing takes place from small to medium-size vessels. Mako, white, and large pelagic sharks are generally accessible only to those aboard ocean-going vessels. Recreational shark fisheries are exploited primarily by private vessels and charter/headboats although there are some shore-based fishermen active in the Florida Keys.

The commercial shark fishery has been sporadic in nature. In the early 1900s, a Pacific shark fishery supplied limited demands for fresh shark fillets and fish meal as well as a more substantial market for dried fins of soupfin sharks. In 1937, the price of soupfin shark liver skyrocketed when it was discovered to be the richest source of vitamin A available in commercial quantities. A shark fishery in the Caribbean Sea, off the coast of Florida, and in the Gulf of Mexico developed in response to this demand (Wagner, 1966). At this time, shark fishing gear included gillnets, hook and line, anchored bottom longlines, floating longlines, and benthic lines for deepwater fishing. These gear types are slightly different than the gears used today and are fully described in Wagner (1966). By 1950, the availability of synthetic vitamin A caused most shark fisheries to be abandoned (Wagner, 1966).

A small fishery for porbeagle existed in the early 1960s off the U.S. Atlantic coast involving Norwegian fishermen. Between the World Wars, Norwegians and Danes had pioneered fishing for porbeagles in the North Sea and in the region of the Shetland, Orkney, and the Faroe Islands. In the late 1940s, these fishermen caught from 1,360 to 2,720 mt yearly, with lesser amounts in the early 1950s (Rae, 1962). The subsequent scarcity of porbeagles in their fishing area forced the Norwegians to explore other grounds, and around 1960, they began

fishing the Newfoundland Banks and the waters east of New York. Between 1961 and 1964, their catch increased from 1,800 to 9,300 mt, then declined to 200 mt (Casey *et al.*, 1978).

The U.S. Atlantic shark fishery developed rapidly in the late 1970s due to increased demand for their meat, fins, and cartilage. At the time, sharks were perceived to be underutilized as a fishery resource. The high commercial value of shark fins led to the controversial practice of finning, or removing the valuable fins from sharks and discarding the carcass. Growing demand for shark products encouraged expansion of the commercial fishery throughout the late 1970s and the 1980s. Tuna and swordfish vessels began to retain a greater proportion of their shark incidental catch, and some directed fishery effort expanded as well. The Secretary of Commerce published the Preliminary Fishery Management Plan for Atlantic Billfish and Sharks in 1978, which noted, among other things, the need for international management regarding sharks. As catches accelerated through the 1980s, shark stocks suffered a precipitous decline. Peak commercial landings of large coastal and pelagic sharks were reported in 1989.

In 1989, the five Atlantic Fishery Management Councils asked the Secretary of Commerce to develop a Shark FMP. The Councils were concerned about the late maturity and low fecundity of sharks, the increase in fishing mortality, and the possibility of the resource being overfished. The Councils requested that the FMP cap commercial fishing effort, establish a recreational bag limit, prohibit "finning," and begin a data collection system.

In 1993, the Secretary of Commerce, through NMFS, implemented the FMP for Sharks of the Atlantic Ocean. The management measures in the 1993 FMP included:

- Establishing a fishery management unit (FMU) consisting of 39 frequently caught species of Atlantic sharks, separated into three groups for assessment and regulatory purposes (Large Coastal Sharks (LCS), Small Coastal Sharks (SCS), and pelagic sharks);
- Establishing calendar year commercial quotas for the LCS and pelagic sharks and dividing the annual quota into two equal half-year quotas that apply to the following two fishing periods – January 1 through June 30 and July 1 through December 31;
- Establishing a recreational trip limit of four sharks per vessel for LCS or pelagic shark species groups and a daily bag limit of five sharks per person for sharks in the SCS species group;
- Requiring that all sharks not taken as part of a commercial or recreational fishery be released uninjured;
- Establishing a framework procedure for adjusting commercial quotas, recreational bag limits, species size limits, management unit, fishing year, species groups, estimates of maximum sustainable yield, and permitting and reporting requirements;
- Prohibiting finning by requiring that the ratio between wet fins/dressed carcass weight not exceed five percent;
- Prohibiting the sale by recreational fishermen of sharks or shark products caught in the Economic Exclusive Zone (EEZ);

- Requiring annual commercial permits for fishermen who harvest and sell shark (meat products and fins);
- Establishing a permit eligibility requirement that the owner or operator (including charter vessel and headboat owners/operators who intend to sell their catch) must show proof that at least 50 percent of earned income has been derived from the sale of the fish or fish products or charter vessel and headboat operations or at least \$20,000 from the sale of fish during one of three years preceding the permit request;
- Requiring trip reports by permitted fishermen and persons conducting shark tournaments and requiring fishermen to provide information to NMFS under the Trip Interview Program; and,
- Requiring NMFS observers on selected shark fishing vessels to document mortality of marine mammals and endangered species.

At that time, NMFS identified LCS as overfished and pelagic and SCS as fully fished. The quotas were 2,436 mt dressed weight (dw) for LCS and 580 mt dw for pelagic sharks. No quota was established for SCS. Under the rebuilding plan established in the 1993 FMP, the LCS quota was expected to increase every year up to the maximum sustainable yield estimated in the 1992 stock assessment, which was 3,787 mt dw.

A number of difficulties arose in the initial year of implementation of the Shark FMP that resulted in a short season and low ex-vessel prices. To address these problems, a commercial trip limit of 4,000 lb. for permitted vessels for LCS was implemented on December 28, 1993 (58 FR 68556), and a control date for the Atlantic shark fishery was established on February 22, 1994 (59 FR 8457). A final rule to implement additional measures authorized by the FMP published on October 18, 1994 (59 FR 52453), which:

- Clarified operation of vessels with a Federal commercial permit;
- Established the fishing year;
- Consolidated the regulations for drift gillnets;
- Required dealers to obtain a permit to purchase sharks;
- Required dealer reports;
- Established recreational bag limits;
- Established quotas for commercial landings; and
- Provided for commercial fishery closures when quotas were reached.

In 1994, under the rebuilding plan implemented in the 1993 Shark FMP, the LCS quota was increased to 2,570 mt dw. Additionally, a new stock assessment was completed in March 1994 that indicated rebuilding LCS could take as long as 30 years and suggested a more cautious approach for pelagic sharks and SCS. A final rule that capped quotas for LCS and pelagic sharks at the 1994 levels was published on May 2, 1995 (60 FR 21468).

In June 1996, NMFS convened another stock assessment to examine the status of LCS stocks. The 1996 stock assessment found no clear evidence that LCS stocks were rebuilding and concluded that “[a]nalyzes indicate that recovery is more likely to occur with reductions in effective fishing mortality rate of 50 [percent] or more.” In response to these results, in 1997, NMFS reduced the LCS commercial quota by 50 percent to 1,285 mt dw and the recreational retention limit to two LCS, SCS, and pelagic sharks combined per trip with an additional allowance of two Atlantic sharpnose sharks per person per trip (62 FR 16648, April 2, 1997). In this same rule, NMFS established an annual commercial quota for SCS of 1,760 mt dw and prohibited possession of five species. As a result of litigation, NMFS prepared additional economic analyses on the 1997 LCS quotas and was allowed to maintain those quotas during resolution of the case.

In June 1998, NMFS held another LCS stock assessment. The 1998 stock assessment found that LCS were overfished and would not rebuild under 1997 harvest levels. Based in part on the results of the 1998 stock assessment, in April 1999, NMFS published the 1999 FMP which included numerous measures to rebuild or prevent overfishing of Atlantic sharks in commercial and recreational fisheries. The 1999 FMP replaced the 1993 Atlantic Shark FMP. Management measures related to sharks that changed in the 1999 FMP included:

- Reducing commercial LCS and SCS quotas;
- Establishing ridgeback and non-ridgeback categories of LCS;
- Implementing a commercial minimum size for ridgeback LCS;
- Establishing blue shark, porbeagle shark, and other pelagic shark subgroups of the pelagic sharks and establishing a commercial quota for each subgroup;
- Reducing recreational retention limits for all sharks;
- Establishing a recreational minimum size for all sharks except Atlantic sharpnose;
- Expanding the list of prohibited shark species to 19 species;
- Implementing limited access in commercial fisheries;
- Establishing a shark public display quota;
- Establishing new procedures for counting dead discards and state landings of sharks after Federal fishing season closures against Federal quotas; and
- Establishing season-specific over- and underharvest adjustment procedures.

The implementing regulations were published on May 28, 1999 (64 FR 29090). However, in 1999, a court enjoined implementation of the 1999 regulations, as they related to the ongoing litigation on the 1997 quotas. Further history of this litigation and shark management is provided under Section 3.1.1.7 below. A year later, on June 12, 2000, the court issued an order clarifying that NMFS could proceed with implementation and enforcement of the 1999 prohibited species provisions (64 FR 29090, May 28, 1999).

3.1.1.4 1999 Fishery Management Plan for Atlantic Tunas, Swordfish, & Sharks

As described, the 1999 FMP replaced the existing Atlantic Shark and Atlantic Swordfish FMPs, and established the first FMP for Atlantic tunas. Before the 1999 FMP, Atlantic tunas were managed only under the ATCA; after the 1999 FMP, Atlantic tunas were managed under both the Magnuson-Stevens Act and ATCA.

NMFS began working on the 1999 FMP shortly after the U.S. Congress reauthorized the Magnuson-Stevens Act in 1996. The 1996 Magnuson-Stevens Act amendments added new fishery management requirements including requiring NMFS to halt overfishing; rebuild overfished fisheries; minimize bycatch and bycatch mortality, to the extent practicable; and identify and protect essential fish habitat (EFH). These provisions were coupled with the recognition that the management of HMS requires international cooperation and that rebuilding programs must reflect traditional participation in the fisheries by U.S. fishermen, relative to foreign fleets.

Development of the 1999 HMS FMP began in September 1997 with the formation of the HMS Advisory Panel (AP). The HMS AP was established under a requirement of the Magnuson-Stevens Act, and is composed of representatives of the commercial and recreational fishing communities, conservation and academic organizations, the five regional fishery management councils involved in Atlantic HMS management, the Atlantic and Gulf coastal states, and the U.S. ICCAT Advisory Committee. The HMS AP met seven times during development of the 1999 FMP, including once during the public comment period on the draft FMP, and provided extensive comment and advice to NMFS.

In October 1997, NMFS prepared and distributed a scoping document to serve as the starting point for consideration of issues for the 1999 FMP. The scoping document described major issues in the fishery, legal requirements for management, and potential management measures that could be considered for adoption in the FMP and solicited public comment on these issues. The scoping document was the subject of 21 public hearings that were held in October and November 1997 throughout the management area. The scoping meetings allowed NMFS to gather information from participants in the fisheries, and provided a mechanism by which the public could provide input to NMFS early in the FMP development process.

In October 1998, NMFS announced in the Federal Register the availability of the draft FMP. The comment period on the draft FMP lasted from October 25, 1998, to March 12, 1999. The proposed rule that accompanied the draft FMP was published in the Federal Register on January 20, 1999. The supplemental part that related to the bluefin tuna rebuilding program published in the Federal Register on February 25, 1999. The comment period on the proposed rule and its supplement also went until March 12, 1999. Subsequent to the release of the proposed rule, NMFS held 27 public hearings in communities from Texas to Maine and the Caribbean. During the comment period, NMFS received several thousand comments from commercial and recreational fishermen, scientists, conservationists, and concerned individuals. An HMS AP meeting was held toward the end of the comment period to allow HMS AP members to view most of the comments NMFS had received on the draft FMP and accompanying proposed rule.

The 1999 FMP incorporated all existing management measures for Atlantic tuna and north Atlantic swordfish that have been issued previously under the authority of the ATCA. It also incorporated all existing management measures for north Atlantic swordfish and Atlantic sharks that had previously been issued under the authority of the Magnuson-Stevens Act. Southern Atlantic swordfish and southern Atlantic albacore tuna continue to be managed only under ATCA. In November 2004, ICCAT adopted its first recommendation for Atlantic sharks.

Some of the non-species specific management measures of the 1999 FMP included vessel monitoring systems for all pelagic longline vessels; gear and vessel marking requirements; moving pelagic longline gear after an interaction with a protected species; a requirement for charter/headboats to obtain an annual vessel permit; tournament registration for all HMS tournaments; time limits on completing a vessel logbook; and expanded observer coverage. The 1999 FMP also established the threshold levels to determine if a stock is overfished, if overfishing is occurring, or if the stock is rebuilt. Finally, the 1999 FMP identified essential fish habitat (EFH) for all Atlantic tunas, swordfish, and sharks. As part of the 1999 FMP, the regulations for all Atlantic HMS, including billfish, were consolidated into one part of the Code of Federal Regulations, 50 CFR part 635. Before then, each species had its own part. This often led to confusion and, in some cases, conflicting regulations.

3.1.1.5 Post 1999 FMP

After issuance of the 1999 FMP, a number of constituents (environmental, commercial fishermen, and recreational fishermen) sued the NMFS (the Agency) over aspects of the plan, including the BFT rebuilding program, the use of vessel monitoring systems in the pelagic longline fleet, the time/area closure for the pelagic longline fleet, the pelagic shark quotas, the shark and yellowfin tuna recreational retention limits, the large and small coastal shark quotas, and the bluefin tuna purse seine allocation. The Agency received favorable court rulings, upholding its actions, in most of these cases, and resolved some matters via settlement agreements. All of the briefings and court orders are a matter of the public record.

3.1.1.6 Regulatory Amendments Relating to the Pelagic Longline Fishery

In the 1999 FMP, NMFS committed to implement a closed area that would effectively protect small swordfish. NMFS began to work towards this goal shortly after the publication of the 1999 FMP. After the publication of the 1999 FMP, NMFS was sued by environmentalists who felt, among other things, that the Agency had not done enough to reduce bycatch in HMS fisheries. As a result, NMFS expanded the goal of the rule to reduce all bycatch and bycatch mortality, to the extent practicable, in the HMS pelagic longline fishery. The following objectives were developed to guide agency action for this goal:

- Maximize the reduction in finfish bycatch;
- Minimize the reduction in the target catch of swordfish and other species;
- Consider impacts on the incidental catch of other species to minimize or reduce incidental catch levels; and
- Optimize survival of bycatch and incidental catch species.

NMFS published the final rule implementing the first regulatory amendment to the 1999 FMP on August 1, 2000 (65 FR 47214), which closed three large areas (DeSoto Canyon, Florida East Coast, and Charleston Bump) and prohibited the use of live bait in the Gulf of Mexico

During the course of this rulemaking, the pelagic longline fleet exceeded the incidental take statement for sea turtles established during the Endangered Species Act (ESA) Section 7 Consultation for the 1999 FMP. That, combined with new information on sea turtles and the uncertainty regarding what the closures would mean for sea turtles, resulted in a new Biological Opinion (BiOp) (June 30, 2000) that concluded that the continuation of the pelagic longline fishery would jeopardize the continued existence of leatherback and loggerhead sea turtles. As a result of the jeopardy finding, NMFS needed to implement certain measures to reduce sea turtle bycatch in the pelagic longline fishery.

Shortly after this conclusion, NMFS decided that further analyses of observer data and additional population modeling of loggerhead sea turtles were needed to determine more precisely the impact of the pelagic longline fishery on turtles. Because of this, NMFS reinitiated consultation on the HMS fisheries on September 7, 2000. In the interim, NMFS implemented emergency regulations, based on historical data on sea turtle interactions, to reduce the short-term effects of the pelagic longline fishery on sea turtles. An emergency rule that closed a portion of the Northeast Distant Statistical Area (NED) and required dipnets and line clippers to be carried and used on pelagic longline vessels to aid in the release of any captured sea turtle published on October 13, 2000 (65 FR 60889).

NMFS issued a BiOp on June 8, 2001 (revised on June 14, 2001), that again concluded that the continued operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of loggerhead and leatherback sea turtles. Accordingly, the BiOp provided a reasonable and prudent alternative (RPA) to avoid jeopardy. This BiOp concluded no jeopardy for other HMS fisheries, but did require additional management measures to reduce sea turtle takes in these fisheries. The RPA included the following elements: closing the NED area effective July 15, 2001, and conducting a research experiment in this area to reduce sea turtle bycatch and bycatch mortality in the PLL fishery; requiring gangions to be placed no closer than twice the average gangion length from the suspending floatlines effective August 1, 2001; requiring gangion lengths to be 110 percent of the length of the floatline in sets of 100 meters or less in depth effective August 1, 2001; and, requiring the use of corrodible hooks effective August 1, 2001. Also, the BiOp included a term and condition for the incidental take statement that required NMFS to issue a regulation requiring that all vessels permitted for HMS fisheries, commercial and recreational, post the sea turtle guidelines for safe handling and release following longline interactions inside the wheelhouse by September 15, 2001. The requirement that all vessels permitted for HMS fisheries post sea turtle handling and release guidelines was modified to specify only bottom and pelagic longline vessels by an August 31, 2001, memorandum from the Office of Protected Resources.

On July 13, 2001, NMFS published an emergency rule (66 FR 36711) to implement several of the BiOp requirements. NMFS published an amendment to the emergency rule to incorporate the change in requirement for the handling and release guidelines that was published in the Federal Register on September 24, 2001 (66 FR 48812).

On July 9, 2002, NMFS published the final rule (67 FR 45393) implementing measures required under the June 14, 2001, BiOp on Atlantic HMS to reduce the incidental catch and post-release mortality of sea turtles and other protected species in HMS Fisheries, with the exception of the gangion placement measure. The rule implemented the NED closure, required the length of any gangion to be 10 percent longer than the length of any floatline if the total length of any gangion plus the total length of any floatline is less than 100 meters, and prohibited vessels from having hooks on board other than corrodible, non-stainless steel hooks. In the HMS shark gillnet fishery, both the observer and vessel operator must look for whales, the vessel operator must contact NMFS if a listed whale is taken and shark gillnet fishermen must conduct net checks every 0.5 to 2 hours to look for and remove any sea turtles or marine mammals from their gear. The final rule also required all HMS bottom and pelagic longline vessels to post sea turtle handling and release guidelines in the wheelhouse. NMFS did not implement the gangion placement requirement because it appeared to result in an unchanged number of interactions with loggerhead sea turtles and an apparent increase in interactions with leatherback sea turtles.

In 2001, 2002, and 2003, NMFS in conjunction with the fishing industry conducted an experiment in the NED to see if certain gear restrictions or requirements could reduce sea turtle captures and mortality. The results of this experiment indicated that certain gear types could reduce sea turtle interactions and mortality and that certain methods of handling and releasing turtles could further reduce mortality. For example, using 16/0 non-offset or 18/0 offset hooks of at least 10 degrees could reduce leatherback and loggerhead sea turtle interactions by approximately 50 and 0 percent, respectively. Using 18/0 hooks flat or offset up to 10 degrees could reduce leatherback and loggerhead sea turtle interactions by approximately 50 and 65 percent, respectively. NMFS is currently, in conjunction with the fishing industry, conducting additional experiments to verify these results throughout the fishery. Additionally, NMFS is working to export these results to other countries to reduce sea turtle interactions and mortality throughout the Atlantic and Pacific Oceans.

On November 28, 2003, based on the conclusion of this experiment and based on preliminary data that indicated that the Atlantic pelagic longline fishery may have exceeded the ITS in the June 14, 2001 BiOp, NMFS published a Notice of Intent (NOI) to prepare a Supplemental Environmental Impact Statement (SEIS) to assess the potential effects on the human environment of proposed alternatives and actions under a proposed rule to reduce sea turtle bycatch (68 FR 66783).

In January 2004, NMFS reinitiated consultation after receiving data that indicated the Atlantic pelagic longline fishery exceeded the incidental take statement for leatherback sea turtles in 2001 – 2002 and for loggerhead sea turtles in 2002. In the spring of 2004, NMFS released a proposed rule that would require fishermen to use certain hook and bait types and take other measures to reduce sea turtle takes and mortality. The resulting June 1, 2004, BiOp considered these measures and concluded that the pelagic longline fishery was not likely to jeopardize the continued existence of loggerhead sea turtles, but was still likely to jeopardize the continued existence of leatherback sea turtles. NMFS published a final rule implementing many gear and bait restrictions and requiring certain handling and release tools and methods on July 6, 2004 (69 FR 40734). NMFS also published an Advance Notice of Proposed Rulemaking to receive comments on how to further reduce sea turtle mortality (69 FR 49858, August 12, 2004),

held several workshops to demonstrate sea turtle release equipment and techniques (69 FR 44513), and released revised sea turtle handling and release placards, protocols, and a video. The placards, protocols, and video are available in English, Spanish, and Vietnamese. NMFS continues to monitor the sea turtle takes in the pelagic longline fishery and may need to take further action if sea turtle takes do not remain below the levels specified in the June 2004 BiOp.

3.1.1.7 Amendment 1 to the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks

As noted under Section 3.1.1.3, in 1999, a court enjoined the Agency from implementing many of the shark-specific regulations in the 1999 FMP. In 2000, the injunction was lifted when a settlement agreement was entered to resolve the 1997 and 1999 lawsuits. The settlement agreement required, among other things, an independent (*i.e.*, non-NMFS) review of the 1998 LCS stock assessment. The settlement agreement did not address any regulations affecting the pelagic shark, prohibited species, or recreational shark fisheries. Once the injunction was lifted, on January 1, 2001, the pelagic shark quotas adopted in the 1999 HMS FMP were implemented (66 FR 55). Additionally, on March 6, 2001, NMFS published an emergency rule implementing the settlement agreement (66 FR 13441). This emergency rule expired on September 4, 2001, and established the LCS and SCS commercial quotas at 1997 levels.

In late 2001, the Agency received the results of the peer review of the 1998 LCS stock assessment. These peer reviews found that the 1998 LCS stock assessment was not the best available science for LCS. Taking into consideration the settlement agreement, the results of the peer reviews of the 1998 LCS stock assessment, current catch rates, and the best available scientific information (not including the 1998 stock assessment projections), NMFS implemented another emergency rule for the 2002 fishing year that suspended certain measures under the 1999 regulations pending completion of new LCS and SCS stock assessments and a peer review of the new LCS stock assessment (66 FR 67118, December 28, 2001; extended 67 FR 37354, May 29, 2002). Specifically, NMFS maintained the 1997 LCS commercial quota (1,285 mt dw), maintained the 1997 SCS commercial quota (1,760 mt dw), suspended the commercial ridgeback LCS minimum size, suspended counting dead discards and state landings after a Federal closure against the quota, and replaced season-specific quota accounting methods with subsequent-season quota accounting methods. That emergency rule expired on December 30, 2002.

On May 8, 2002, NMFS announced the availability of a SCS stock assessment (67 FR 30879). The Mote Marine Laboratory and the University of Florida provided NMFS with another SCS assessment in August 2002. Both of these stock assessments indicate that overfishing is occurring on finetooth sharks while the three other species in the SCS complex (Atlantic sharpnose, bonnethead, and blacknose) are not overfished and overfishing is not occurring. On October 17, 2002, NMFS announced the availability of the 2002 LCS stock assessment and the workshop meeting report (67 FR 64098). The results of this stock assessment indicate that the LCS complex is still overfished and overfishing is occurring. Additionally, the 2002 LCS stock assessment found that sandbar sharks are no longer overfished but that overfishing is still occurring and that blacktip sharks are rebuilt and overfishing is not occurring.

Based on the results of both the 2002 SCS and LCS stock assessments, NMFS implemented an emergency rule to ensure that the commercial management measures in place for the 2003 fishing year were based on the best available science (67 FR 78990, December 27, 2002; extended 68 FR 31987, May 29, 2003). Specifically, the emergency rule implemented the LCS ridgeback/non-ridgeback split, set the LCS and SCS quotas based on the results of stock assessments, suspended the commercial ridgeback LCS minimum size, and allowed both the season-specific quota adjustments and the counting of all mortality measures to go into place.

In December 2003, NMFS implemented the regulations in Amendment 1 to the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (68 FR 74746). These regulations were based on the 2002 small and large coastal shark stock assessments. Some of the measures taken in Amendment 1 included revising the rebuilding timeframe for LCS; re-aggregating the LCS complex; establishing a method of changing the quota based on maximum sustainable yield (MSY); updating some shark EFH identifications; modifying the quotas, seasons, and regions; adjusting the recreational bag limit; establishing criteria to add or remove species to the prohibited shark list; establishing gear restrictions to reduce bycatch and bycatch mortality; establishing a time/area closure off of North Carolina for bottom longline fishermen; and establishing VMS requirements for bottom longline and gillnet fishermen.

3.1.1.8 Other Post-1999 FMP Regulations for Atlantic Tunas, Swordfish, and Sharks

Since the 1999 FMP, there have been a number of other regulatory actions in addition to the rules mentioned above. Below is a short list of some of these actions.

- Removal of the bluefin tuna purse seine category cap: In the 1999 FMP, NMFS finalized an alternative that would have capped the quota for vessels in the purse seine category at 250 mt ww. On November 1, 1999, NMFS published a final rule that removed the purse seine category quota cap (64 FR 58793). In that rule, the purse seine category was given 18.6 percent of the total landings quota available to the United States.
- Change to bluefin tuna incidental category catch limits: In May 2003 (68 FR 32414), NMFS modified the target catch requirements for vessels participating in the Atlantic Tunas Longline category such that pelagic longline vessels would have to land 2,000 lb. of other fish in order to land one bluefin tuna on a trip, 6,000 lb. of other fish in order to land two bluefin tuna on a trip, and 30,000 lb. of other fish to land three bluefin tuna. The rule was designed to reduce the discards of bluefin tuna. This change in the target catch requirements applies to all fishing areas. This rule also maintained separate quotas for the seasonal fisheries, adjusted the Longline category North/South division line to 31°00' N. latitude and adjust the Longline category subquotas to allocate 60 percent to the southern area and 40 percent to the northern area.
- Bluefin tuna amendment: On December 24, 2003 (68 FR 74504), NMFS published a final rule that changed the opening date of the Purse seine category, established closure dates of the Harpoon and General categories, and set size tolerances of large medium BFT for the Purse seine and Harpoon categories.

- Recreational permits and reporting requirements: On December 18, 2002 (67 FR 77434), NMFS published a final rule requiring all vessel owners fishing recreationally (*i.e.*, no sale) for Atlantic HMS, including billfish, to obtain an Atlantic HMS recreational angling category permit. On January 7, 2003 (68 FR 711), a final rule establishing a mandatory reporting system for all non-tournament recreational landings of Atlantic marlins, sailfish, and swordfish was published. These requirements became effective in March 2003.
- International trade permit: On November 17, 2004, NMFS published a final rule that implements the recommendations of ICCAT and the Inter-American Tropical Tuna Commission (IATTC) for bluefin tuna, swordfish, and bigeye tuna (69 FR 67268). The rule requires all importers and exporters, regardless of ocean basin, of bluefin tuna, swordfish, and bigeye tuna to obtain an HMS International Trade Permit on an annual basis, report imports and exports on species-specific statistical documents and re-export certificates, and submit biweekly activity reports to NMFS. The rule is effective on July 1, 2005.
- Import restrictions: Due to compliance concerns, ICCAT has recommended numerous import restrictions on countries that have not shown that they are complying with ICCAT recommendations. Over the years, the countries and species that have import restrictions placed on them have changed. As of July 2, 2005, bigeye tuna from Bolivia or Georgia will not be allowed to be imported into the United States (May 17, 2005, 70 FR 28218). Additionally, ICCAT established “positive” and “negative” lists. These lists outline all the vessels that have permits and do not conduct IUU fishing (positive list) and those vessels that are not permitted and have conducted IUU fishing in the past (negative list). Fish that were caught on vessels that are not on the positive list or that are on the negative list cannot be imported into the United States (December 6, 2004, 69 FR 70396).
- Quota adjustments: Based on various ICCAT recommendations, NMFS has adjusted the quotas for North and South Atlantic swordfish (69 FR 68090, November 23, 2004) and Atlantic bluefin tuna.
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- National Plan of Action for the Conservation and Management Of Sharks: On February 15, 2001, NMFS released the final National Plan of Action (NPOA) for the Conservation and Management of Sharks (66 FR 10484). The NPOA was developed pursuant to the endorsement of the International Plan of Action (IPOA) by the United Nations’ Food and Agriculture Organization Committee on Fisheries Ministerial Meeting in February 1999. The overall objective of the IPOA is to ensure conservation and management of sharks and their long-term sustainable use. The final NPOA, consistent with the Magnuson-Stevens Act, requires NMFS and the Regional Fishery Management Councils to undertake extensive data collection, analysis, and management measures in order to ensure the long-term sustainability of U.S. shark fisheries. The NPOA also encourages Interstate Marine Fisheries Commissions and State agencies to initiate or expand current data collection, analysis, and management measures and to implement regulations consistent with federal regulations, as needed. For additional information on the U.S. NPOA and its implementation, see <http://www.nmfs.noaa.gov>.
- Shark Finning Prohibition Act: On December 21, 2000, President Clinton signed the Shark Finning Prohibition Act into law (Public Law 106-557). This amended the

Magnuson-Stevens Fishery Conservation and Management Act to prohibit any person under U.S. jurisdiction from (i) engaging in the finning of sharks; (ii) possessing shark fins aboard a fishing vessel without the corresponding carcass; and (iii) landing shark fins without the corresponding carcass. NMFS published final regulations on February 11, 2002 (67 FR 6194). These regulations prohibit the finning of sharks, possession of sharks without the corresponding carcasses, and landings of shark carcasses without the corresponding carcasses in U.S. fisheries in the exclusive economic zone and on the high seas.

Other regulatory actions that have been taken including opening and closing of fisheries and adjustments to quota allocations. All of these actions are not listed here but can be found by searching the Federal Register webpage at <http://www.gpoaccess.gov/fr/index.html> or by reviewing the annual HMS SAFE reports (<http://www.nmfs.noaa.gov/sfa/hms>).

3.1.2 History of Atlantic Billfish Fishery Management

Atlantic billfish managed by NMFS are Atlantic blue marlin (*Makaira nigricans*), white marlin (*Tetrapturus albidus*), sailfish (*Istiophorus platypterus*), and longbill spearfish (*Tetrapturus pfluegeri*). Atlantic billfish management strategies have been guided by international and domestic considerations and mechanisms since the 1970s.

3.1.2.1 Preliminary Fishery Management Plan (PMP) for Atlantic Billfish and Sharks

Domestic management of Atlantic billfish resources has been developed, modified, and implemented in three primary stages and through a series of other rulemakings. In January 1978, NMFS published the Preliminary Fishery Management Plan (PMP) for Atlantic Billfish and Sharks (43 FR 3818), which was supported by an EIS (42 FR 57716). This PMP was a Secretarial effort. The management measures contained in the plan were designed to:

1. minimize conflict between domestic and foreign users of billfish and shark resources;
2. encourage development of an international management regime; and
3. maintain availability of billfishes and sharks to the expanding U.S. fisheries.

Primary management measures in the Atlantic Billfish and Shark PMP included:

- Mandatory data reporting requirements for foreign vessels;
- A prohibition on the foreign commercial retention of all billfishes caught within the Fishery Conservation Zone (FCZ) of the United States and stipulated release in a manner that will maximize the probability of survival;
- A hard cap on the catch of sharks by foreign vessels, which when achieved would prohibit further landings of sharks by foreign vessels;
- Permit requirements for foreign vessels to fish in the FCZ of the United States;
- Radio checks by foreign vessels upon entering and leaving the FCZ;

- Boarding and inspection privileges for U.S. observers; and
- Prohibition on intentional discarding of fishing gears by foreign fishing vessels within the FCZ that may pose environmental or navigational hazards.

3.1.2.2 The Fishery Management Plan for the Atlantic Billfishes

Building upon the PMP for Atlantic Billfish and Sharks was the Fishery Management Plan for the Atlantic Billfishes (53 FR 21501). This plan was jointly developed by five Atlantic regional councils (Caribbean, Gulf, South Atlantic, Mid-Atlantic, New England) and implemented in October 1988 (53 FR 37765). The 1988 FMP defined the Atlantic billfish management unit to include sailfish from the western Atlantic Ocean, white marlin and blue marlin from the North Atlantic Ocean, and longbill spearfish from the entire Atlantic Ocean; described objectives for the Atlantic billfish fishery; and established management measures to achieve those objectives. The objectives identified in the Billfish FMP were to:

1. Maintain the highest availability of billfishes to the U.S. recreational fishery by implementing conservation measures that will reduce fishing mortality;
2. Optimize the social and economic benefits to the nation by reserving the billfish resource for its traditional use, which in the continental United States is almost entirely a recreational fishery; and
3. Increase understanding of the condition of billfish stocks and the billfish fishery.

The primary management measures adopted to achieve the stated objectives of the 1988 Billfish FMP included:

- Defining OY in qualitative terms;
- A prohibition on the sale of Atlantic billfish, with an exemption for small-scale handline (artisanal) fishery in Puerto Rico;
- Establishment of minimum sizes for Atlantic billfish;
- A prohibition on possession of Atlantic billfish by commercial longline and drift net vessels; and
- Establishment of data reporting requirements.

As previously mentioned, passage of the 1996 Magnuson-Stevens Act initiated fundamental changes in U.S. fishery management policy, shifting emphasis to precautionary management strategies. In September 1997, NMFS listed fishery resources considered to be overfished, which included Atlantic blue and white marlin. This action triggered a suite of management requirements, including development of a rebuilding plan for overfished stocks, and reduction in bycatch and bycatch mortality. Further, in 1998, western Atlantic sailfish was added to the list of overfished species. In the international arena, ICCAT made its first-ever binding recommendation for Atlantic blue and white marlin in 1997. ICCAT Recommendation 97-09 required landing reductions of at least 25 percent from 1996 levels by the end of 1999. Improvements in data and monitoring were also included in this recommendation.

3.1.2.3 Interim Rules

On March 24, 1998, NMFS published an interim rule (63 FR 14030) under section 305(c) of the Magnuson-Stevens Act, that increased the minimum size limits for Atlantic blue marlin and Atlantic white marlin to 96 inches lower jaw-fork length (LJFL) and 66 inches LJFL, respectively, and required tournament operators to notify NMFS of tournaments involving any Atlantic billfish at least four weeks prior to commencement. NMFS utilized the increases in size limits to immediately reduce overfishing, and to implement the 1997 ICCAT recommendation, as required by the ATCA. NMFS published an extension and amendment of the interim rule on September 29, 1998 (63 FR 51859), that:

- Further increased the minimum size for Atlantic blue marlin to 99 inches LJFL;
- Restated the minimum size for Atlantic white marlin as 66 inches LJFL;
- Established a recreational bag limit of one Atlantic marlin (blue or white marlin) per vessel per trip;
- Granted the Assistant Administrator for Fisheries (AA) the authority to adjust the bag limit, with a three-day notice, including adjustment to a zero bag limit, if necessary to meet international and domestic management objectives; and
- Continued requirements to notify NMFS of tournaments involving any Atlantic billfish at least 4 weeks prior to commencement. NMFS amended the interim rule on November 13, 1998 (63 FR 63421) by removing the adjustable bag limit provision.

Internationally, ICCAT adopted its second binding recommendation regarding billfish in November 1998. ICCAT Recommendation 98-10 built upon the previously discussed ICCAT Recommendation 97-09 by limiting landings of Atlantic blue and white marlin in the year 2000 to no more than levels required to be achieved by the end of 1999.

3.1.2.4 Amendment One to the Atlantic Billfish Fishery Management Plan

In response to Magnuson-Stevens Act requirements, and concurrent with efforts on the interim rule discussed above, NMFS prepared Amendment One to the Atlantic Billfish Fishery Management Plan and published final regulations on May 28, 1999 (64 FR 29090). Amendment One maintained the objectives of the original 1988 Billfish FMP and identified the following additional objectives. As described in Chapter 1, this document consolidates these objectives with the objectives of the 1999 Atlantic Tunas, Swordfish, and Sharks FMP.

1. Prevent and/or end overfishing of Atlantic billfish and adopt the precautionary approach to fishery management;
2. Rebuild overfished Atlantic billfish stocks, and monitor and control all components of fishing mortality, both directed and incidental, so as to ensure the long term sustainability of the stocks and promote Atlantic-wide stock recovery to the level where MSY can be supported on a continuing basis;
3. Establish a foundation for the adoption of comparable international conservation and management measures, through international entities such as ICCAT, to rebuild

overfished fisheries and to promote achievement of optimum yield for these species throughout their range, both within and beyond the EEZ;

4. Minimize, to the extent practicable, release mortality in the directed billfish fishery, and minimize, to the extent practicable, bycatch and discard mortality of billfish on gears used in other fisheries;
5. Better coordinate domestic conservation and management of the fisheries for Atlantic tunas, swordfish, sharks, and billfish, considering the multispecies nature of many highly migratory species (HMS) fisheries, overlapping regional and individual participation, international management concerns, and other relevant factors;
6. Provide the data necessary for assessing the fish stocks and managing the fisheries, including addressing inadequacies in collection and ongoing collection of social, economic, and bycatch data on Atlantic billfish fisheries;
7. Coordinate domestic regulations and ICCAT conservation measures for controlling Atlantic-wide fishing mortality;
8. Consistent with other objectives of the amendment, manage Atlantic billfish fisheries for the continuing OY, so as to provide the greatest overall benefit to the Nation, particularly with respect to recreational opportunities and taking into account the protection of marine ecosystems. Optimum yield is the maximum sustainable yield from the fishery, as reduced by any relevant social, economic, or ecological factors;
9. Minimize adverse social and economic effects on recreational and commercial activities to the extent practicable, consistent with ensuring achievement of the other objectives of this plan, and with all applicable laws;
10. Maximize protection of areas identified as essential fish habitat for Atlantic billfish, particularly for critical life stages; and
11. Promote the live release of Atlantic billfish through active outreach and educational programs.

Primary management measures included:

- Adjustment of minimum size regulations for Atlantic billfish;
- A prohibition on the retention of longbill spearfish;
- Maintenance of prohibitions on commercial possession and retention;
- Allowed removal of the hook from Atlantic billfish;
- A requirement for permits and logbook reporting for charterboats targeting billfish, if selected, as part of an HMS charter/headboat system;
- Implementation of billfish tournament notification requirements;
- Implementation of a June 1 to May 31 fishing year;
- Development and implementation of outreach programs; and
- An extension of the management unit for Atlantic marlins.

3.1.2.5 ICCAT 2000

ICCAT adopted additional recommendations (00-13) regarding Atlantic billfish, including an international two-phased rebuilding plan for Atlantic blue and white marlin, in November 2000. Phase I of the plan required that countries (other than the United States) capturing marlins in commercial fisheries reduce white marlin landings from pelagic longline and purse seine fisheries by 67 percent and blue marlin landings by 50 percent from 1999 levels. ICCAT adopted the marlin rebuilding strategy based on the SCRS' most recent stock assessments that indicated that marlin stocks continued to be severely overfished. ICCAT Recommendation 00-13 also recommended that the United States restrict annual landings by U.S. recreational fishermen to 250 Atlantic blue and white marlin, combined, for 2001 and 2002 (Phase I). This recommendation was subsequently extended through 2006.

3.1.2.6 White Marlin Endangered Species Act (ESA) Listing Review

In September 2001, NMFS received a petition filed pursuant to ESA to list white marlin as endangered or threatened throughout its range and to designate critical habitat. After conducting a comprehensive review of the status of the species, NMFS determined in September 2002 that, while Atlantic white marlin abundance had declined from historical levels, the stock was not at a level that warranted listing under the ESA. The ESA determination specified that another stock status review would occur in 2007. Also, in 2001, the HMS and Billfish Advisory Panels (Billfish AP), a group of state representatives, regional Fishery Management Council members, commercial fishing representatives, recreational fishing representatives, academics, and environmental interest group representatives, indicated that it was necessary to improve the monitoring of recreational swordfish and Atlantic billfish landings.

3.1.2.7 ICCAT 2002

In 2002, Phase 1 of the ICCAT Atlantic marlin rebuilding plan was extended through the year 2005 by adoption of ICCAT Recommendation 02-13. ICCAT amended the rebuilding program by specifying that, through 2005, the annual amount of blue marlin that can be harvested and retained by pelagic longline and purse seine vessels must be no more than 50 percent of the 1996 or 1999 landing levels, whichever is greater. For white marlin, the annual amount allowed to be harvested and retained by pelagic longline and purse seine vessels must be no more than 33 percent of the 1996 or 1999 landing levels, whichever is greater. The United States had already prohibited commercial retention of billfish since the implementation of the 1988 Atlantic Billfish FMP, so it was already compliant with this recommendation. For ICCAT members other than the United States, the plan required the release of all live marlins taken as bycatch in commercial fisheries, but provided an allowance for the landing of fish unavoidably killed, provided that they were not sold. For its part of the rebuilding program, the United States agreed to continue limiting recreational landings of Atlantic blue and white marlin to 250 fish, annually, maintain its regulations prohibiting the retention of marlins by U.S. pelagic longline vessels, and continue monitoring billfish tournaments through scientific observer coverage of at least five percent initially, with the objective of 10 percent coverage by 2002. As recorded in ICCAT compliance tables, the United States remained within its 250 marlin limit in 2001 and 2003, but exceeded the 250 fish limit in 2002. At present, the United States complies with the ICCAT observer requirements by requiring that all HMS tournaments register with NMFS,

selecting all billfish tournaments for reporting their results, and assigning observers to many billfish tournaments.

3.1.2.8 Recreational Permitting and Reporting Rules

A key element in complying with Phase I of the ICCAT marlin rebuilding plan and improving the monitoring of recreational billfish and swordfish landings was establishing a comprehensive monitoring program for all recreational landings of marlin, sailfish and swordfish, particularly those landed outside of fishing tournaments, which are monitored through the Recreational Billfish Survey (RBS).

In early 2002, the HMS and Billfish APs again discussed monitoring U.S. recreational billfish landings, and focused upon both a landings tag program (similar to those operating for the recreational bluefin tuna fisheries in North Carolina and Maryland) and a call-in requirement for all billfish landings.

On December 18, 2002 (67 FR 77434), NMFS published a final rule requiring all vessel owners fishing for Atlantic HMS to obtain an Atlantic HMS recreational angling category permit. On January 7, 2003 (68 FR 711), a final rule establishing a mandatory reporting system for all non-tournament recreational landings of Atlantic marlins, sailfish, and swordfish was published. These requirements became effective in March 2003. These requirements, in combination with mandatory tournament reporting, are improving the ability of the United States to accurately monitor all recreational landings of Atlantic marlins, sailfish, and swordfish, however, non-compliance by recreational anglers remains a significant issue.

3.1.2.9 Proposed Rule to Codify the 250 Marlin Landing Limit

On September 17, 2003, NMFS published a proposed rule (68 FR 54410) to codify an annual landings limit of 250 Atlantic blue and white marlin combined, and to implement a provision to carry forward over- and underharvest of the Atlantic blue and white marlin landing limit into subsequent fishing years, consistent with ICCAT recommendations. To remain in compliance with the landing limit and to maximize allowable landings, NMFS proposed to increase the legal recreational minimum size of Atlantic blue and white marlin for the remainder of a fishing year when 80 percent of the landing limit was projected to be achieved. If the landing limit was attained, NMFS proposed to allow only catch-and-release fishing for these species for the remainder of the fishing year. The proposed rule was not finalized due to a need to review the methodology of calculating recreational marlin landings. The proposed rule incorporated landings as reported by the Recreational Billfish Survey (RBS), and indicated landings levels of 129 fish for 2002. Application of a new methodology (scalar expansion) resulted in the United States reporting 279 marlin to ICCAT for compliance purposes for 2002, which exceeded the annual 250 fish landings limit by 29 fish. NMFS is continuing to review various methodologies to identify the most appropriate approach for estimating recreational marlin landings. The proposed rule for this current Draft HMS FMP formally withdrew this 2003 proposed rule. Similar measures to those in the 2003 proposed rule are analyzed in Chapter 4 of this document.

3.1.2.10 ICCAT 2004

At the November 2004 ICCAT meeting, the United States chose not to apply the scalar expansion methodology for compliance purposes, but rather applied a methodology (RBS + Non-Tournament Reporting System + State Landing Tags) similar, but not identical to that used in the 2001 compliance report and the September 2003 Proposed Rule. Application of this methodology resulted in the United States reporting 131 marlin to ICCAT for compliance purposes in 2004. The United States is continuing to review its methodology to quantify recreationally landed marlins. Further, a new ICCAT Recommendation (as yet unnumbered) was adopted which extended Phase I of the Marlin Rebuilding Plan and delayed the planned 2005 assessment by SCRS of blue and white marlin to 2006 on the basis of inadequate data. This action resulted in an extension of the cap of 250 blue and white marlin, combined, for U.S. recreational landings through 2006.

3.1.3 Summary and Update of Management Measures Taken in 2005 and Early 2006

During calendar year 2005, NMFS' HMS Management Division completed numerous actions, including the release of the Draft HMS FMP, several inseason actions and proposed and final rules, and responses to several petition for rulemakings. Each of the regulatory actions is consistent with existing HMS rebuilding plans, and is supported by a regulatory analysis, as required, of the action's socio-economic and/or ecological effects. These analyses are supplements or updates to previous environmental impact statements and regulatory impact analyses, and are found in supporting documents including but not limited to environmental assessments (EA), environmental impact statements (EIS), and/or regulatory impact reviews (RIR). As reflected in these supporting documents, which are available from NMFS upon request or on the NMFS HMS Management Division's webpage, these actions are not expected to have adverse ecological impacts on target, non-target, or protected species, but are expected overall to have positive cumulative impacts. Table 3.1 provides a list of all Federal Register notices filed during 2005 relating to specific actions taken by NMFS' HMS Management Division.

In the beginning of 2006, NMFS' HMS Management Division completed additional actions including proposing and finalizing adjustment to the U.S. swordfish annual quota, proposing and finalizing the second and third 2006 fishing seasons for the Atlantic shark fishery, proposing the annual specifications for the 2006 BFT fishery, and proposing dehooking and complementary closures for the Atlantic shark bottom longline fishery. NMFS will provide a similar table of all 2006 actions related to Atlantic HMS in the 2007 SAFE Report.

Currently, there is one active lawsuit (The Ocean Conservancy v. Evans, Civ. No. 1:04-cv-1155 (D.D.C.)) relating to an HMS management action. In the summer of 2004, environmental groups challenged the July 2004 sea turtle bycatch mitigation rule that NMFS implemented for the Atlantic pelagic longline fishery and accompanying BiOp. The judge ruled in favor of NMFS in 2005; the plaintiffs have appealed the ruling.

Table 3.1 Summary of 2005 Federal Register Notices Related to HMS.

Action Type NOAA Fisheries ID #	CFR Part	Action Description	Action Pub Info
Rules and Regulations ID 122704C	635	Atlantic Highly Migratory Species; Bluefin Tuna Fisheries; Fishery reopening; quota transfer.	1/4/2005 70 FR 302
Notice ID 020205B		Proposed Information Collection; Comment Request; Highly Migratory Species Vessel Logbooks and Cost-Earnings Data Reports; Notice.	2/7/2005 70 FR 6419
Notice ID 020205C		Notice; Proposed Information Collection; Comment Request; Atlantic Highly Migratory Species Vessel and Gear Marking; Notice.	2/7/2005 70 FR 6420
Notice ID 020105N		Proposed Information Collection; Comment Request; Atlantic Highly Migratory Species Observer Notification Requirements; Notice.	2/7/2005 70 FR 6418
Notice		Proposed Information Collection; Comment Request; Atlantic Highly Migratory Species Permit Family of Forms; Notice.	2/17/2005 70 FR 8074
Rules and Regulations ID 07234B RIN 0648-AR86	635	Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quota Specifications, General Category Effort Controls, and Catch-and-Release Provision; Final rule.	3/7/2005 70 FR 10897
Proposed Rules ID 021105C RIN 0648-AT05	635	Atlantic Highly Migratory Species; Lifting Trade Restrictive Measures; Proposed rule, request for comments, notice of public hearing.	3/8/2005 70 FR 11190
Proposed Rule ID 020205F RIN 0648-AT07	635	Atlantic Highly Migratory Species; Atlantic Commercial Shark Management Measures; Proposed rule; request for comments.	3/10/2005 70 FR 11922
Rules and Regulations ID 030405B	635	Atlantic Highly Migratory Species; Bluefin Tuna Fisheries; Closure.	3/11/2005 70 FR 12142
Proposed Rules ID 030405C RIN 0648-AT01	635	Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quota Specifications and General Category Effort Controls; Proposed rule; request for comments; notice of public hearings.	3/23/2005 70 FR 14630
Notices ID 032805A		Highly Migratory Species; Notice of availability; request for comments.	4/4/2005 70 FR 17069
Rules and Regulations ID020205F RIN 0648-AT07		Atlantic Highly Migratory Species; Atlantic Commercial Shark Management Measures; Temporary rule; fishing season notification.	4/27/2005 70 FR 21673
Notices ID 032805A		Atlantic Highly Migratory Species; Exempted Fishing Permits, Notice.	5/9/2005 70 FR 24397
Proposed Rules ID 020205F RIN 0648-AT07	635	Atlantic Highly Migratory Species; Receipt of a petition for rulemaking; request for comments.	5/10/2005 70 FR 11922
Final Rule ID 021105C RIN 0648-AT05	635	Atlantic Highly Migratory Species; Lifting Trade Restrictive Measures; Final rule.	5/17/2005 70 FR 28218
Notices ID 032805A		Atlantic Highly Migratory Species; Notice of public workshops.	5/20/2005 70 FR 29285

Action Type NOAA Fisheries ID #	CFR Part	Action Description	Action Pub Info
Rules and Regulations ID 030405C RIN 0648-AT01	635	Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quota Specifications and General Category Effort Controls; Final rule.	6/7/2005 70 FR 33033
Rules and Regulations ID 052405D	635	Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Temporary rule; in season retention limit adjustment.	6/7/2005 70 FR 33039
Rules and Regulations ID 080405B	635	Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Temporary rule; in season retention limit adjustment.	8/18/2005 70 FR 48490
Proposed Rules ID 051603 RIN 0648-AQ65	300 600 635	Atlantic Highly Migratory Species; Recreational Atlantic Blue and White Marlin Landings Limit; amendments to the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks and the Fishery Management Plan for Atlantic Billfish. Proposed rule; availability of the Fishery Management Plan (FMP); petition for rulemaking; proposed rule withdrawal; request for comments; public hearings.	8/19/2005 70 FR 48804
Notices		Proposed Information Collection; Comment Request; Highly Migratory Species Scientific Research Permits, Exempted Fishing Permits, and Letters of Authorization; Notice.	8/31/2005 70 FR 51754
Proposed Rules ID 051603C RIN 0648-AQ65	635	Atlantic Highly Migratory Species; Cancelling and changing the location and time of certain public hearings.	9/7/2005 70 FR 53146
Notices ID 081705D		Notice; advisory panel meetings; request for nominations.	9/12/2005 70 FR 53777
Notices ID 090205B		Large Coastal Shark 2005/2006 Stock Assessment Data Workshop; Notification of workshop.	9/15/2005 70 FR 54537
Proposed Rules ID 051603C RIN 0648-AQ65	635	Atlantic Highly Migratory Species; Cancellation of a public hearing.	9/23/2005 70 FR 55814
Rules and Regulations ID 091405F	635	Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Temporary rule; inseason catch limit adjustment.	9/28/2005 70 FR 56595
Proposed Rule ID 051603C RIN 0648-AQ65	635	Atlantic Highly Migratory Species: Extension of comment period; rescheduling of the Joint Advisory Panel meeting.	10/5/2005 70 FR 58177
Proposed Rules ID 090805C RIN 06448-AT74	635	Atlantic Highly Migratory Species; Atlantic Commercial Shark Management Measures; Proposed rule; request for comments.	10/6/2005 70 FR 58366
Rules and Regulations ID 102505	635	Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Temporary rule; inseason retention limit adjustment.	11/09/2005 70 FR 67929
Notices ID 110905B		Magnuson-Stevens Act Provisions; Atlantic Highly Migratory Species; Exempted Fishing, Scientific Research, Display, and Chartering Permits; Notice of intent to issue exempted fishing, scientific research, display, and chartering permits; request for comments.	11/29/2005 70 FR 71469
Rules and Regulations ID 090805C RIN 0648-AT74	635	Atlantic Highly Migratory Species; Atlantic Commercial Shark Management Measures; Final rule; fishing season notification.	12/1/2005 70 FR 72080

Action Type NOAA Fisheries ID #	CFR Part	Action Description	Action Pub Info
Notices		Proposed Information Collection; Comment Request; Vessel Monitoring System for Atlantic Highly Migratory Species; Notice.	12/6/2005 70 FR 72611
Rules and Regulations ID 112305D	635	Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Temporary rule; quota transfer.	12/7/2005 70 FR 72724
Proposed Rules ID 040605D	635	Atlantic Highly Migratory Species; Commercial Shark Management Measures; Petition for rulemaking; decision.	12/14/2005 70 FR 73980
Rules and Regulations ID 121205F	635	Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Temporary rule; inseason retention limit adjustment.	12/16/2005 70 FR 74712
Notices ID 120505C		Large Coastal Shark 2005/2006 Stock Assessment Workshop; Notice; Public Workshop.	12/22/2005 70 FR 76031
Notices ID 051603C RIN 0648-AQ65	635	Atlantic Highly Migratory Species; Amendments to the Fishery Management Plan (FMP) for Atlantic Tunas, Swordfish, and Sharks and the FMP for Atlantic Billfish; Rescheduling and addition of public hearings.	12/27/2005 70 FR 76441

3.1.4 2005 Accomplishments of the International Commission for the Conservation of Atlantic Tunas (ICCAT)

The 2005 Regular Meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT) was held November 14 – 20, 2005, in Seville, Spain. There was no new species stock assessments conducted in 2005. As such, much of the work at the 2005 Commission meeting dealt with issues such as trade and trade monitoring, compliance with existing ICCAT recommendations, bycatch, data collection, and the functioning of the Commission. For purposes of clarity, it should be understood that ICCAT recommendations are binding instruments for Contracting Parties while ICCAT resolutions are non-binding and express the will of the Commission. All ICCAT recommendations and resolutions are available on the ICCAT website at <http://www.ICCAT.es>.

3.1.4.1 Atlantic Tunas

Despite U.S. concerns over increasing catches of juvenile yellowfin tuna, ICCAT adopted Recommendation 05-01, which repealed the longstanding 3.2 kg size limit on Atlantic yellowfin tuna, as originally established by Recommendation 72-01. The Commission also adopted Recommendation 05-02 which severely reduced the Taiwan's bigeye tuna quota in the Atlantic from 16,500 mt to 4,600 mt. This recommendation provided 3,300 mt to the directed Taiwanese bigeye tuna fleet and 1,300 mt as bycatch in the Taiwanese albacore fishery. Under this recommendation, Taiwan's directed bigeye fleet is also limited to 15 vessels and its albacore fleet is limited to 60 vessels in 2006. In addition, the measure requires Taiwan to improve monitoring and control of its fleet, to reduce overall fleet capacity in the Atlantic, and to take steps to control its business entities involved in supporting illegal, unregulated, and unreported (IUU) activities.

3.1.4.2 Atlantic Sharks

ICCAT adopted Recommendation 05-05 which requires contracting parties to report on domestic implementation of *Recommendation 04-10 Concerning the Conservation of Sharks Caught in Association with Fisheries Managed by ICCAT*. For those contracting parties that had not implemented ICCAT Recommendation 04-10 at the time of the 2005 Commission meeting, Recommendation 05-05 reinforced the requirement to do so.

3.1.4.3 Trade and Trade Monitoring

ICCAT adopted a number of recommendations regarding trade of HMS or tracking of trade during the 2005 Commission meeting. Recommendation 05-04 implements new requirements regarding farmed bluefin tuna including improved tracking of farmed fish for quota monitoring and trade purposes, sampling and data collection programs for assessment purposes, and other requirements to ensure the effectiveness of ICCAT conservation and management measures. To better combat IUU fishing activities, ICCAT adopted Recommendation 05-06 that establishes a program for transshipment by large-scale tuna longline fishing vessels, and procedures for transshipments that occur on the high seas and within areas of national jurisdiction. The measure establishes a record of carrier vessels authorized to receive ICCAT-managed species, and requires carrier vessels to use VMS and to have an ICCAT observer on board. It also establishes the ICCAT Regional Observer Program for placing observers on carrier vessels in the Atlantic – the first of its kind at ICCAT. The observer program will be funded by members and cooperating parties engaging in transshipment operations. The program will be operated by the ICCAT Secretariat, who is responsible for training and placement of observers.

3.1.4.4 Data Compliance

ICCAT adopted Recommendation 05-09, a U.S. sponsored proposal establishing a process and procedure for reviewing compliance by ICCAT parties and cooperating parties with data submission requirements. Specifically, Recommendation 05-09 established a procedure for identifying data gaps and their causes and for developing appropriate actions to address those data problems. The measure tasks the SCRS with providing a report of data gaps and their impacts on assessments. It requires the responsible member or cooperating party to explain the reporting deficiency and provide a plan for corrective action. In addition, the measure provides that the Compliance Committee of the Commission should recommend appropriate action based on relevant information to address problematic data deficiencies.

3.1.4.5 Circle Hooks

A U.S. proposal encouraging ICCAT parties to undertake research on the use of circle hooks in pelagic longline, recreational, and artisanal fisheries was adopted by the Commission as Resolution 05-08. The measure is non-binding and also includes a provision encouraging parties to share information on fishing methods and technological gear changes that improve the safe handling and release of incidentally caught species.

A number of other non-binding resolutions were adopted which can be found on the ICCAT website identified above.

3.1.5 Existing State Regulations

Table 3.2 outlines the existing State regulations as of May 30, 2006, with regard to HMS species. The HMS Management Division updates this table periodically throughout the year. While the HMS Management Division updates this table periodically throughout the year, persons interested in the current regulations for any state should contact that state directly.

Table 3.2 State Rules and Regulations Pertaining to Atlantic HMS, as of May 30, 2006.

Please note that state regulations are subject to change. Please contact the appropriate state personnel to ensure that the regulations listed below remain current. X = Regulations in Effect; n = Regulation Repealed; FL = Fork Length; CL = Carcass Length; TL = Total Length; LJFL = Lower Jaw Fork Length; CFL = Curved Fork Length; DW = Dressed Weight; and SCS = Small Coastal Sharks; LCS = Large Coastal Sharks.

State	Species				Cite Reference	Regulatory Details	Contact Information
	Tuna	Swords	Billfish	Sharks			
ME	X			X	Tuna -ME Rev. Stat. Ann. tit. 12, " 6001, 6502, and 6551 Sharks - Code ME R. 13-188 ' 50.02	Tuna - Retention limit - 1 tuna/year - non resident special tuna permit holder; Unlawful to fish for tuna with gear other than harpoon or hook and line or possess tuna taken in unlawful manner. No minimum size limits. Sharks - Regulations apply to Spiny dogfish only	ME Department of Marine Resources George Lapointe Phone: 207/624-6553 Fax: 207/624-6024
NH	R		X	X	Tuna - FIS 603.10 (REPEALED) Billfish - FIS 603.13 Sharks - FIS 603.19	Billfish - Possession limit - 1 billfish/trip; Minimum size (LJFL) - Blue marlin - 99"; White marlin - 66"; Sailfish - 57"; May be taken by hook and line only; Unlawful to sell billfish Sharks - Regulations apply to Spiny dogfish only	NH Fish and Game Clare McBane Phone: 603/868-1095 Fax: 603/868-3305
MA	X		R	X	Tuna - 322 CMR ' 6.04 Billfish – 322 CMR ' 6.11 (REPEALED) Sharks – 322 CMR ' 6.35 & 6.37 CMRs available online at http://www.mass.gov/dfwele/dmf/commercialfishing/cmr_index.htm	Tuna - Reference to ATCA and Federal regulations Billfish – repealed as of December 2005 Sharks - Regulations apply to Spiny dogfish; Prohibition on harvest, catch, take, possession, transportation, selling or offer to sell any basking, dusky, sand tiger, or white sharks.	MA Division of Marine Fisheries Melanie Griffin Phone: 617/626-1520 Fax: 617/626-1509
RI				X	Sharks - RIMFC Regulations ' 7.15	Sharks - Regulations apply to spiny dogfish only	RI Department of Environment Management Brian Murphy Phone: 401/783-2304
CT				X	Dogfish – Regulations of Connecticut State Agencies § 26-159a-19	Sharks - Regulations apply to spiny dogfish only	CT Department of Environmental Protection David Simpson Phone: 860/434-6043 Fax: 860/434-6150

State	Species				Cite Reference	Regulatory Details	Contact Information
	Tuna	Swords	Billfish	Sharks			
NY			X	X	Billfish -NY Environmental Conservation ' 13-0339 (5) Sharks - NY Environmental Conservation ' 13-0338; State of New York Codes, Rules and Regulations (Section 40.1)	Billfish - Blue marlin, White marlin, Sailfish, and Longbill spearfish shall not be bought, sold or offered for sale; Striped marlin, Black marlin, Shortbill spearfish shall not be bought, sold or offered for sale Sharks - Shark finning prohibited; Reference to the Federal regulations 50 CFR part 635; Prohibited sharks listed	NY Department of Environmental Conservation Gordon Colvin Phone: 631/444-0435 Fax: 631/444-0449
NJ				X	Sharks-NJ Administrative Code, Title 7. Department of Environmental Protection, NJAC 7:25-18.1 and 7:25-18.12(d)	Sharks - Commercial/Recreational: min size 48" TL or 23" from the origin of the first dorsal fin to pre-caudal pit; possession limit - 2 fish/vessel or 2 fish per person if fishing from shore or a land based structure, must hold Federal permit to possess or sell more than 2 sharks; no sale during Federal closures; Finning prohibited; Prohibited Species: basking, bigeye sand tiger, sand tiger, whale and white sharks.	NJ Fish and Wildlife Hugh Carberry Phone: 609/748-2020 Fax: 609/748-2032
DE			X	X	Billfish - DE Code Ann. tit. 7, ' 1310 Sharks - DE Code Regulations 3541	Billfish/Sharks - Reference to Federal regulations for sharks; Prohibition on sale of Atlantic Sailfish and Blue/White/Striped marlin Sharks – Recreational/Commercial: min size – 54" FL; bag limit – 1 shark/vessel/trip; shorebound anglers – 1 shark/person/day; 2 Atlantic sharpnose/vessel/trip with no min size; Prohibited Species: same as Federal species. Prohibition against fins without being naturally attached to the body.	DE Division of Fish and Wildlife Roy Miller Phone: 302/739-9914

State	Species				Cite Reference	Regulatory Details	Contact Information
	Tuna	Swords	Billfish	Sharks			
MD	X	X	X	X	<p>Tuna - Code of Maryland Regulations tit. 8, ' 02.12.01 and tit. 8, ' 02.05.23</p> <p>Swordfish - Code of Maryland Regulations tit. 8, ' 02.12.01 and tit. 8, ' 02.05.27</p> <p>Billfish - Code of Maryland Regulations tit. 8, ' 02.12.01 and tit. 8, ' 02.05.26</p> <p>Sharks - Code of Maryland Regulations tit 8, ' 02.05.17</p>	<p>Tuna - Reference to listing Bluefin Tuna as Ain need of conservation@; Federal regulations used to control size and seasons and recreational catch required to be tagged</p> <p>Swordfish - Reference to listing Swordfish as Ain need of conservation@; Federal regulations used to control size and seasons and recreational catch required to be tagged</p> <p>Billfish (blue and white marlin and sailfish) - Reference to listing Billfish as Ain need of conservation@; Federal regulations control size and seasons and recreational catch required to be tagged</p> <p>Sharks – Recreational: min size - 54" FL or 31" carcass; 1 shark/vessel/trip; 1 Atlantic sharpnose/person/trip with no min size; Commercial: same as Federal regulations; Finning prohibition; Prohibited Species: same as Federal regulations.</p>	<p>MD Department of Natural Resources Harley Speir Phone: 410/260-8303</p>
VA			X	X	<p>Billfish - 4 VA Administrative Code 20-350</p> <p>Sharks - 4 VA Administrative Code 20-490</p>	<p>Billfish - Prohibition on sale of billfish</p> <p>Sharks – Recreational: bag limit – 1 LCS, SCS, or pelagic shark/vessel/day with a min size of less than 54" FL or 30" CL; 1 Atlantic sharpnose and bonnethead/person/day with no min size; No limits on rec harvest of smooth and spiny dogfish; Commercial: possession limit - 4000 lb dw/day, min size - 58" FL or 31" CL west of the COLREGS line and no min size limit east of the COLREGS line; Prohibitions: fillet at sea, finning, longlining, same prohibited shark species as Federal regulations; and spiny dogfish commercial regulations.</p>	<p>VA Marine Resources Commission Jack Travelstead Phone: 757/247-2247 Fax: 757/247-2020</p>

State	Species				Cite Reference	Regulatory Details	Contact Information
	Tuna	Swords	Billfish	Sharks			
NC			X	X * Modify closed area off NC to allow fishing outside 15 fathoms during 1 st trimester (Jan 1 - Feb 15)	Billfish -NC Administrative Code tit. 15A, r.3M.0507 Sharks -NC Administrative Code tit. 15A, r.3M.0505; Proclamation FF-24-2004	Billfish - Recreational possession limit - 1 Blue or White marlin/vessel/trip; 1 Sailfish/person/day; Minimum size - Blue marlin - 99"; White marlin - 66"; Sailfish - 63"; unlawful to sell or offer for sale Blue or White marlin and Sailfish Sharks - Director may impose restrictions for size, seasons, areas, quantity, etc. via proclamation; Commercial: open seasons and species groups same as Federal; 4000 lb trip limit for LCS; retain fins with carcass through point of landing; LL shall only be used to harvest LCS during open season, shall not exceed 500 yds or have more than 50 hooks; Recreational: LCS (54" FL min size) - no more than 1 shark/vessel/day or 1 shark/person/day, SCS (no min size) – no more than 1 finetooth or blacknose shark/vessel/day and no more than 1 Atlantic sharpnose and 1 bonnethead/person/day, pelagics (no min size) -1 shark/vessel/day; Same prohibited shark species as Federal regulations.	NC Division of Marine Fisheries Preston Pate Phone: 252/726-7021 Fax: 252/726-0254
SC	X		X	X	Tuna -SC Code Ann. ' 50-5-2730 Billfish - SC Code Ann. ' 50-5-1700 Sharks -SC Code Ann. ' 50-5-2725	Tuna - Reference to ATCA and MSA regulations for Tuna Billfish - Unlawful to sell billfish; hook and line gear only; unlawful to possess while transporting gillnets, seines, or other commercial gear Sharks – Recreational: 2 Atlantic sharpnose/per/day and 1 Bonnethead/person/day, no min size; All others – 1 shark/boat/trip, min size – 54" FL; Reference to Federal commercial regulations and prohibited species	SC Department of Natural Resources Robert Boyles Phone: 843/953-9050 Fax: 912/262-2318

State	Species				Cite Reference	Regulatory Details	Contact Information
	Tuna	Swords	Billfish	Sharks			
GA			X	X	Gear Restrictions/Prohibitions - GA Code Ann. ' 27-4-7; Billfish - GA Code Ann. ' 27-4-130.2; GA Comp. R. & Regs. ' 391-2-4-.04 Sharks - GA Code Ann. ' 27-4-130.1; OCGA ' 27-4-7(b); GA Comp. R. & Regs. ' 391-2-4-.04	Gear Restrictions/Prohibitions - Use of gillnets is prohibited in state waters. Billfish - Possession prohibited in state waters, except for catch and release. Sharks – Commercial/Recreational: 2 sharks from the Small Shark Composite (bonnethead, sharpnose, and spiny dogfish, daily limit may consist of 2 of the same species (eg., 2 bonnetheads, 2 sharpnoses) or 2 different species, SCS min size 30” TL; All other sharks - 2 sharks/person or boat, whichever is less, min size 48” TL, may include only 1 greater than 84”; Prohibited Species: sand tiger sharks. All species must be landed head and fins intact. Sharks may not be landed in Georgia if harvested using gill nets.	GA Department of Natural Resources Phone: 912/264-7218 Fax: 912/262-3143

State	Species				Cite Reference	Regulatory Details	Contact Information
	Tuna	Swords	Billfish	Sharks			
FL		X	X	X	Sharks -FL Administrative Code Ann. r.68B-44, F.A.C Swordfish/ Billfish - FL Administrative Cod Ann. r. 68B-33 F.A.C	<p>Billfish – Longbill/Mediterranean/roundscale spearfish – harvest/possession/landing/purchase/sale/exchange prohibited.</p> <p>Blue/White Marlin and Sailfish – Sale prohibited; Aggregate possession of 1 fish/person; Gear restriction (hook and line only); Minimum size limit (Blue Marlin – 99” LJFL; White Marlin – 66” LJFL; Sailfish – 63” LJFL); Recreational catch reporting requirement (all non-tournament landings must be reported NOAA within 24 hours); Must land in whole condition (gutting allowed)</p> <p>Swordfish - Minimum size - 47 in LJFL/29” cleithrum to keel/33 lbs. dw; Possession limit 1 fish/person/day or 3 fish/vessel/day (with 3 or more persons onboard); Commercial harvest and sale allowed only with Florida saltwater products license and a federal LAP for swordfish; Recreational catch reporting requirement (all non-tournament landings must be reported NOAA within 24 hours)</p> <p>Sharks – Commercial/Recreational: min size - none; possession limit – 1 shark/person/day or 2 sharks/vessel on any vessel with 2 or more persons on board; State waters close to commercial harvest when adjacent Federal waters close; Federal permit required for commercial harvest, so Federal regulations apply unless state regulations are more restrictive; Finning & Filleting prohibited; and same prohibited species as Federal regulations, except Caribbean sharpnose is not included.</p>	<p>FL Fish and Wildlife Conservation Commission Phone: 850/488-6058 Fax: 850/488-7152</p>
AL	X	X	X	X	Sharks - AL Administrative Code r. 220-2-.46, r.220-3-.30, r.220-3-.37	<p>Tuna/Swordfish/Billfish/Sharks - Reference to Federal regulations</p> <p>Sharks – Recreational & Commercial: bag limit – 2 sharpnose/person/day; no min size; all other sharks – 1/person/day; min size – 54” FL or 30” dressed; state waters close when Federal season closes; Prohibition: Atlantic angel, bigeye thresher, dusky, longfin make, sand tiger, basking, whale, white, and nurse sharks.</p>	<p>AL Department of Conservation and Natural Resources Major Jenkins jjenkins@dcnr.state.al.us Phone: 251 861 2882</p>

State	Species				Cite Reference	Regulatory Details	Contact Information
	Tuna	Swords	Billfish	Sharks			
LA	X	X	X	X	Tuna -LA Administrative Code Title 76, Pt. VII, Ch. 3, § 361 Swords/Billfish - LA Administrative Code Title 76, Pt. VII, Ch. 3, § 355 Sharks - LA Administrative Code Title 76, Pt. VII, Ch. 3, § 357	Tuna - Recreational bag and possession limit Yellowfin (3 fish/person); Rec/Commercial minimum size - Yellowfin, Bigeye and Bluefin (27 in CFL) Billfish/Swordfish - Minimum size - Blue marlin (99 in LJFL), White marlin (66" LJFL), Sailfish (63 in LJFL), Swordfish (29 in carcass length or 33 lbs dw); Recreational creel limit - 5 swordfish/vessel/trip Sharks - Recreational: min size – 54" FL, except Atlantic sharpnose and bonnethead; bag limit - 1 sharpnose/person/day; all other sharks – 1 fish/person/day; Commercial: 4,000 lb LCS trip limit, no min size; Com & Rec Harvest Prohibited: 4/1-6/30; Prohibition: same as Federal regulations, as well as smalltooth and largetooth sawfish	LA Department of Wildlife and Fisheries Harry Blanchet 225 765-2889 fax (225) 765-2489 hblanchet@wlf.louisiana.gov
MS	X		X	X	Tuna/Billfish/Sharks - MS Code Title-22 part 7	Tuna – Min size - Bigeye 27" CFL; Yellowfin 27" CFL; Bag limit none in commercial; Bag limit of 3 yellowfin tuna/person in recreational; No commercial take of bluefin tuna; 1 bluefin tuna/vessel/week and landing must be reported to MDMR. Billfish - No take provisions for commercially harvested Blue and White marlin and Sailfish; Recreational minimum size - Blue marlin 99" LJFL; White marlin 66" LJFL; Sailfish 63" LJFL; No position for longbill spear fish. Sharks – Recreational: min size - LCS/Pelagics 37" TL; SCS 25" TL; bag limit - LCS/Pelagics 1/person up to 3/vessel; SCS 4/person; Commercial & Prohibited Species - Reference to Federal regulations.	MS Department of Marine Resources Kerwin Cuevas Phone: 228/374-5000

State	Species				Cite Reference	Regulatory Details	Contact Information
	Tuna	Swords	Billfish	Sharks			
TX		X	X	X	Billfish/Swordfish/Sharks - TX Administrative Code Title 31, Part 2, Parks and Wildlife Code Title 5, Parks and Wildlife Proclamations 65.3 and 65.72	<p>Blue Marlin, White Marlin, Sailfish, Sharks, Longbill spearfish, and Broadbill swordfish are gamefish and may only be taken with pole and line (including rod and reel);</p> <p>Blue Marlin, White Marlin, Sailfish, and Longbill spearfish may not be sold for any purpose;</p> <p>Billfish - Bag limit none; min size Blue Marlin – 131” TL; White Marlin – 86” TL; Sailfish – 84” TL;</p> <p>Sharks - Commercial/Recreational: bag limit - 1 shark/person/day; Commercial/Recreational possession limit is twice the daily bag limit (i.e., 2 sharks/person/day); min size 24” TL.</p>	<p>TX Parks & Wildlife Randy Blankinship Phone: 956/350-4490 Fax: 956/350-3470</p>
Puerto Rico	X	X	X	X	<p>Regulation #6768 Article 8 – General Fishing Limits</p> <p>Article 13 – Limitations</p> <p>Article 17 – Permits for Recreational Fishing (March 2004)</p>	<p>Sell, offer for sale, or traffic in any billfish or marlin, either whole or processed, captured in jurisdictional waters of Puerto Rico.</p> <p>Swordfish or billfish, tuna and shark are covered under the federal regulation known as Highly Migratory Species of the United States Department of Commerce (50 CFR, Part 635). Fishers who capture these species shall comply with said regulation. Billfish captured incidentally with long line must be released by cutting the line close to the fishhook, avoiding the removal of the fish from the water.</p> <p>In the case of tuna and swordfish, fishers shall obtain a permit according to the requirements of the Federal government.</p>	<p>Puerto Rico Department of Natural and Environmental Resources Craig Lilyestrom Phone: 787-724-8774 x4042 craig@caribe.net</p>
U.S. Virgin Islands	X	X	X	X	US VI Commercial and Recreational Fisher’s Information Booklet Revised June 2004	Federal regulations and federal permit requirements apply in territorial waters.	<p>www.caribbeanfmc.com http://www.caribbeanfmc.com/usvi%20booklet/fisher%20booklet%20final.pdf</p>