

APPENDIX II

RESPONSE TO COMMENTS

**FEIS BILLFISH
SUMMARY OF PUBLIC HEARINGS**

A total of 25 public hearings were held on the Billfish Plan between September 28 and October 21, 1987 at selected sites along the east coast, Gulf of Mexico, and in the Caribbean area. The public hearing dates and locations by Council area were:

SOUTH ATLANTIC COUNCIL

Key West, FL	9/28/87
Morehead City, NC	9/28/87
Ft. Lauderdale, FL	9/29/87
Manteo, NC	9/29/87
Jacksonville, FL	9/30/87
Charleston, SC	9/30/87
Savannah, GA	10/1/87

GULF OF MEXICO COUNCIL

Panama City, FL	10/12/87
Mobile, AL	10/13/87
Biloxi, MS	10/14/87
New Orleans, LA	10/15/87
Houston, TX	10/19/87
Port Aransas, TX	10/20/87
Port Isabel, TX	10/21/87

CARIBBEAN COUNCIL

St. Croix, USVI	10/14/87
St. Thomas, USVI	10/15/87
Hato Rey, PR	10/20/87
Lajas, PR	10/21/87

MID-ATLANTIC COUNCIL

Virginia Beach, VA	10/12/87
Salisbury, MD	10/13/87
Wall, NJ	10/15/87
Ronkonkoma, NY	10/20/87

NEW ENGLAND COUNCIL

Hyannis, MA	9/28/87
Portsmouth, NH	9/30/87
Galilee, RI	10/1/87

The following comments (by major category) were received either from attendees at the public hearings or from letters to the Councils.

MINIMUM SIZE LIMITS

COMMENTS: Fish for mounting should be exempted because:

- Smaller fish are preferred for mounts
- Public will not accept replica mounts
- Real fish are needed to make molds for replicas
- Most people mount their first fish regardless of size
- Would have a very large economic impact on the taxidermy industry
- Would have a very large economic impact on the charter boat industry
- Quality of mounts will suffer if fish is not available

RESPONSE: Most comments relative to exemptions to the minimum size for mounting have been received from either those in the taxidermy business or from charter boat captains and mates. There has been little comment from the general public, or from sport fishing organizations. The Councils believe that conservation of the billfish resource requires that all sources of mortality be minimized, and that all user groups must share the burden of management to ensure the continuation of a viable recreational fishery. The Councils have heard considerable testimony from representatives of the taxidermy industry, and have concluded that it is not essential to have any part of the actual fish to make a mount. Although testimony was conflicting, it appears that the master mold can be used to make 50 plugs, and that each plug can be used to make a new mold from which approximately 100 mounts can be made. Thus, killing the fish is unnecessary and an extremely wasteful use of such a valuable resource. Allowing an exemption for the taxidermy industry will reduce the effectiveness of the management plan and provide a loophole which will make enforcement impossible.

The Councils also feel that there are many factors that will ameliorate the impacts on the taxidermy industry. First, availability of billfish to the recreational fishery should increase as a result of this management plan making more fish available to be mounted. Second, the mean size should increase over time which will increase the proportion of fish that can legally be retained. Further, since replica mounts are technologically possible, there is nothing to preclude any fish from being mounted, regardless of its size. It is anticipated that the an affidavit signed by the captain certifying the capture and attesting to the length, girth and estimated weight will be provided to the angler so that an accurate replica mount can be made. With a vigorous advertising and education campaign by the industry, an approach such as this may make replica mounts entirely acceptable. In any case, the Councils feel that the management plan is needed to ensure the continuation of the recreational billfish fishery without which the taxidermy and charter boat industries will suffer considerably more.

COMMENTS: Size limits are unnecessary
 Minimum sizes are too big
 Minimum sizes are too small
 Should have different minimum sizes for different areas
 Should have a tolerance limit for minimum sizes

RESPONSE: One objective of the management plan is to reduce billfish mortality caused by the recreational fishery. Minimum sizes do this by restricting legal retention to fish above a minimum size. The minimum sizes specified in the FMP will reduce recreational mortality by 50 percent, 50 percent, and 30 percent for blue marlin, white marlin and sailfish respectively. The Councils believe reducing recreational billfish mortality is essential for conservation of the resource. A tolerance limit is functionally the same as lowering the minimum size which will reduce the effectiveness of this measure. If a fisherman is not certain that the fish is above the minimum size, the fish should be released.

The Councils considered different minimum sizes for different areas, because size distributions vary by area. However, for ease of enforcement and uniformity of regulations throughout the range of the species, this option was rejected in favor of uniform minimum sizes. It is because uniform sizes are being used that the minimum size will seem to small in some areas and too big in others. On average though, the impact should be to reduce mortality by the above percentages.

COMMENTS: Minimum sizes will increase discards of dead fish
 Blue marlin come up dead or die after release

RESPONSE: The Councils are unaware of any evidence that suggests that discards will increase because of minimum sizes. Data from observers aboard U.S. longline vessels indicates that 76 percent of blue marlin are alive when brought alongside. Some of these fish will certainly die shortly after release, but most are believed to survive. There is no reason to believe that mortality of recreationally caught fish is higher than longline caught fish. While some percentage of the fish caught and released in the recreational fishery will probably not survive, there is no reason to believe that this percentage will be so high as to eliminate the benefits of this measure.

The effectiveness of the management plan requires that a significant percentage of recreationally and commercially caught and released billfish survive. While there is presently no reason to believe that this is not true, the plan recognizes that research on the survival of released billfish is a very high priority. Should this research determine that most billfish do not survive being caught, a different management regime would be initiated through plan amendment.

COMMENTS: For blue marlin, minimum size protects the wrong fish - i.e., should be protecting spawning females not small males.

RESPONSE: While it is true that few blue marlin over 200 pounds are males, the population of fish under 200 pounds is composed of both males and females and it is the fish under 200 pounds that will be impacted by the management plan. Since there is no evidence of recruitment overfishing, there is presently no biological reason to selectively protect large females. Any reduction in mortality of fish under 200 pounds will increase the number of fish over 200 pounds, and will increase the spawning potential of the stock. The minimum size will not increase fishing mortality on large females.

COMMENTS: Small fish are needed for science

RESPONSE: The plan is not intended to reduce the availability of fish needed for scientific research. The Magnuson Act already contains provision for scientific research, and specific exemptions need not be explicit in the plan.

COMMENTS: Impossible to measure a live billfish accurately
Fish will be killed in the process of measuring it

RESPONSE: The Councils recognize that measuring live billfish can be difficult. However, it is anticipated that measuring a billfish will be done quickly by either laying a marked line alongside the fish or by sliding a clip attached to the proper length line over the fishing leader. A brightly colored float on the other end of the line will allow a very quick determination of whether the fish is of legal size. This procedure should not harm the fish and will delay its release by no more than a minute or two. Further, only those fish that are very close to the minimum size will need to be measured. If a fish is not clearly above the minimum size, the difficulty in measuring it should discourage retention of the fish, a situation that the Councils consider desirable. Ultimately the Councils hope to reduce billfish retention to as near zero as possible.

COMMENTS: Should have bag limits in lieu of minimum sizes
Should issue big game-type tags for retention of billfish in lieu of size limits

RESPONSE: The Councils have considered daily and annual bag limits in lieu of minimum sizes as a mechanism to reduce mortality. However, as discussed in the plan, retention of more than one billfish per day is so infrequent that a bag limit will do very little to reduce mortality. Even an annual bag limit of one fish per boat will not reduce mortality as much as the target reductions of 50 percent for blue and white marlin. This, combined with the difficulty and expense involved in administering such a program caused the Councils to reject this alternative in favor of size limits.

COMMENTS: Should have bag limits in addition to minimum sizes

RESPONSE: Data presently available indicates that bag limits in addition to size limits would only reduce mortality by a very small additional amount. For blue marlin, a bag limit of 1 fish per boat per day in conjunction with size limits would only reduce mortality an additional 3.7 percent. For white marlin, a bag limit of 1 fish per boat per day would decrease mortality only an additional 7.6 percent. The Councils felt that further decreases in mortality could be more easily accomplished by increasing the minimum sizes rather than adding another regulation should this be shown to be necessary. However, the Councils recognize that multiple catches of white marlin and sailfish above the minimum sizes are not infrequent. Although present data indicates that multiple retentions are infrequent, the Councils are concerned that retention patterns may change as a result of this management plan, and will be carefully monitoring this following implementation. The Councils will reconsider bag limits in the first amendment to the plan.

COMMENTS: Minimum size should apply only to tournaments (i.e., professional fishermen)

RESPONSE: The Councils believe that the burden of management should be shared by all user groups. Further, since the intent of the minimum size regulation is to reduce mortality by a specified amount, if the regulation were to apply only to tournaments then the desired reduction would not be achieved, and minimum sizes would have to be increased considerably. The size necessary to achieve the desired reduction could be determined only if it were known what percent of the total billfish catch is taken in tournaments, and this information is not available. Further, a regulation that applied only to tournaments would greatly complicate enforcement.

COMMENTS: Recreational fishermen should not be allowed to possess any billfish

RESPONSE: While it is true that this measure would further reduce mortality and perhaps create greater equity between recreational and commercial user groups, the Councils feel that this measure would be excessively restrictive, severely impacting tournaments and taxidermy businesses, thereby reducing the overall benefits derived from the resource.

COMMENTS: Fish under the minimum size would be world records in some line categories

RESPONSE: While this is true for very light line categories (e.g., less than 12 lb test for blue marlin), the Councils do not consider this to be sufficient justification to change the management regime.

COMMENTS: Minimum size should be expressed in length rather than weight

RESPONSE: The considerable testimony received during the public comment period establishing the difficulty and uncertainty of estimating the weight of a live billfish, the problem of weight loss

from the time of capture to the time of weighing, and the difficulty of establishing a violation if there is no scale available, convinced the Councils to adopt this recommendation.

COMMERCIAL RESTRICTIONS

COMMENTS: No sale provision discriminates against the commercial fishery
 No evidence that the billfish stocks need management
 Potentially more valuable commercial fishery is not being allowed to develop
 No documentation that a commercial market will reduce availability to recreational fishery
 Fishery should be managed for MSY

RESPONSE: The Councils have concluded that the greatest overall benefit to the nation will result from reserving billfish, to the extent possible, for the recreational fishery. The available data suggests that the economic value of the recreational fishery is several orders of magnitude greater than the commercial fishery. The traditional fishery is almost entirely recreational, there is presently no directed commercial fishery, and the incidental catch of billfishes in the longline fishery represents an insignificant source of income. In light of this, the Councils feel that prohibiting the sale of these species will not have a significant impact on the commercial fishery. Even if the commercial fishery were to increase production an order of magnitude (1000%), the value to the longline fishery would be less than four percent of the combined tuna and swordfish catch. At these levels, it can be assumed that the recreational fishery would be severely impacted or eliminated. Without the no sale provision, the commercial market will continue to develop, thwarting the objectives of the management plan.

COMMENTS: No sale provision is unfair to consumers

RESPONSE: Considering the value of a live billfish to the recreational fishery, the Councils believe that utilizing these species for food is a very inefficient use of the resource. There are many species of fish that can be readily substituted for billfish as a food, but there are no other species that can substitute for billfish as game fish.

COMMENTS: Regulations will result in dead discards
 Some bycatch allowance should be given to longliners since fish will be dead anyway

RESPONSE: The Councils recognize that the prohibition on sale and possession of billfish by commercial longline vessels will result in dead discards. However, there is no way to ensure that live billfish are released unless the prohibition applies to all fish. The Councils recognize that this

is a waste of a valuable resource and have identified as a research priority, investigating ways of reducing the incidental catch of billfish.

COMMENTS: Releasing fish will only make them available to foreign fisheries

RESPONSE: The vast majority of billfish tagged in the EEZ that have been recaptured, have been recaptured in the EEZ. Thus, most of the benefits of this management measure should accrue to the U.S. recreational fishery.

COMMENTS: Released fish do not survive

RESPONSE: The survival rate of released billfish is not known but is believed to be high. However, since the effectiveness of the plan is contingent on the veracity of this belief, determining the survival rate of released billfish is a high priority research item.

COMMENTS: Should be an exemption for the New England harpoon fishery

New England harpoon fishery is a traditional fishery

RESPONSE: The New England harpoon fishery is a quasi-commercial fishery participated in by recreational fishermen who sell their catch. These people are believed to derive an insignificant amount of income from this activity. Since the fish are far more valuable to the charter boat industry and the recreational rod and reel fishery, this is not considered an efficient use of the resource. In contrast, the artisanal handline fishery in Puerto Rico is not a directed fishery and while incidental catches of billfish are relatively rare, they represent a significant contribution to the income of these fishermen.

COMMENTS: Violates National Standard #4 - fairness and equity

RESPONSE: National Standard #4 states that conservation and management measures shall not discriminate between residents of different states, and that fishing privileges shall be allocated among various U.S. fishermen such that these allocations are fair and equitable to all such fishermen, reasonably calculated to promote conservation, and carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

The management measures contained in the FMP are for the express purpose of reducing fishing mortality, and thus promoting conservation to the extent possible, considering the limitations of U.S. jurisdiction over the stock. Since the commercial harvest is very small and takes billfish only incidental to tunas and swordfish, the management measures restricting commercial possession and sale will have an insignificant impact on these fishermen. In contrast, while insignificant to the commercial sector, these landings have the potential of significantly impacting recreational billfish fishing. Since it is believed that reserving these fish for the recreational fishery will optimize the social and economic benefits to the nation, the Councils do not believe that these measures are unfair. Rather, the measures in the FMP will, increase the

availability of billfish and therefore the opportunity for everyone to catch billfish in a non-commercial manner.

COMMENTS: Marlin bycatch will not be reduced unless tuna fishery is controlled
Unrestricted longlining must be controlled

RESPONSE: It is believed that the management measures contained in the FMP will reduce billfish mortality. While controlling the longline fishery would undoubtedly reduce the marlin bycatch, it would be at the expense of the very valuable commercial tuna and swordfish fisheries. The Councils do not have authority under the Magnuson Fishery Conservation and Management Act to regulate tuna fisheries.

IMPORTS

COMMENTS: Import restrictions are unjustified
Councils have no authority to prohibit imports
Import restrictions would be justified only if billfish were endangered species
Import restrictions violate international trade practices
Import restrictions are contrary to U.S. policy encouraging free trade
FMP violates GATT and other international agreements to which U.S. is a party
Magnuson Act does not authorize regulation of trade and markets
Magnuson Act does not authorize the Councils to prohibit the sale of fish that are legally caught

RESPONSE: The intent of the plan is to prohibit the sale of billfish from the same stock as those fish found in the U.S. EEZ. The Councils are not attempting to control the market place, prohibit imports or interfere with foreign trade. What the Councils are trying to do is to increase the availability of billfish to the recreational fishery. To accomplish this, it is essential that the commercialization of the billfish resource be prevented. The FMP does this by prohibiting the sale of these fish in the U.S. The Councils believe that prohibiting the sale of a species of fish is a legal action under the Magnuson Act if the intent is for conservation of the resource. Since the Councils intent is to manage billfish as a recreational fishery, conservation of the resource, in this context, requires maintaining the population at the highest possible level. Allowing the development and expansion of the commercial harvest from these stocks would be inconsistent with these objectives. Clearly, since these measures impact foreign and domestic fishermen equally, the Councils are not trying to secure a marketing advantage for domestic fishermen, eliminate competition or manipulate the marketplace or the price. Further, the question is academic since at

the present time there are essentially no billfish being imported into the U.S. from the stocks being managed by this plan.

PUERTO RICAN HANDLINE EXEMPTION

COMMENTS: Exemption creates a loophole that will allow illegal fish to be sold
 Enforcement will be impossible
 Should have a way of containing artisanal fishery
 There is no artisanal fishery
 There should be no exemption
 There should be a cap of no more than 30 billfish annually

RESPONSE: The Councils have been told of the existence of an artisanal fishery in Puerto Rico for at least five years. The Councils do not want to disadvantage the few legitimate artisanal fishermen for whom the few billfish they catch may contribute significantly to their income. Nonetheless, the Councils recognize that this exemption will create a loophole and complicate enforcement. To address these concerns, there will be a cap on landings, permitting requirements for these fishermen, and tracking and monitoring provisions.

COMMENTS: Should have an exemption for Virgin Islands artisanal fishery

RESPONSE: While the Councils have been told of the existence of an artisanal fishery in Puerto Rico for several years, an artisanal fishery in the Virgin Islands was not mentioned until the plan went to public hearings. The Councils will reconsider an exemption for this fishery if and when its existence is documented and its size and landings quantified.

REPORTING REQUIREMENTS

COMMENTS: Need mandatory observers aboard longliners

RESPONSE: The Councils previously requested mandatory observers through the swordfish FMP, and the request was disapproved. Until such time as NOAA-NMFS develops a domestic observer policy, mandatory observer coverage will not be approved.

COMMENTS: Mandatory tournament reporting is unnecessary since voluntary system is working
 Mandatory tournament reporting will discourage participation
 It will be expensive to enforce
 Quality of data will deteriorate
 No one will serve as tournament director

Will force tournament directors to become either law enforcement agents or co-conspirators

RESPONSE: The intent of this measure is to determine total landings from this major user group. Tournament results provided voluntarily do not provide uniform data or complete coverage. Billfish tournaments often generate considerable amounts of money for their organizers and for the local economy which more than offsets the small inconvenience involved in providing basic catch and effort data. While there is reasonably good voluntary coverage in the Gulf of Mexico, in other areas there is no voluntary reporting, so the question of data quality is moot. It is unlikely that any tournaments will be cancelled because of the small effort involved in providing these data. Tournament directors will only be documenting tournament results and would certainly not be liable if someone lands an undersize fish.

MISCELLANEOUS

COMMENTS: All recreational and commercial boats should be licensed

RESPONSE: All commercial swordfish vessels are required to have a permit. Requiring all recreational boats that might catch a billfish to have a license would be tantamount to a saltwater fishing license, and is beyond the scope of this management plan.

COMMENTS: Drift gill nets should be prohibited in waters known to contain large populations of billfish

RESPONSE: The fishing characteristics of drift gill nets used for king mackerel off the southeast coast of Florida have been documented by onboard observers, and the South Atlantic and Gulf Councils are preparing an amendment to the Coastal Migratory Pelagics plan to ban this gear (although not necessarily because of their billfish bycatch). A request by the five involved Councils to place observers aboard pelagic drift gill net vessels in 1983 was denied by the Secretary. Thus, there is insufficient information available to evaluate the impact of this gear on billfish.

COMMENTS: Certain areas of the Gulf of Mexico should be declared sanctuaries

RESPONSE: There is presently no data to suggest what areas should be so designated, why such an action is necessary, or what benefits would accrue from this. The migratory nature of billfish would suggest that such action would be ineffective.

COMMENTS: Stainless steel hooks and multiple hook rigs should be prohibited
 Use of live bait should be prohibited
 Sale of live bait should be prohibited where sailfish are migrating

RESPONSE: Use of live bait has been shown to be very effective in catching sailfish. Unfortunately, fish caught on live bait are often hooked deeply, and are probably less likely to survive than fish caught trolling. However, stainless steel hooks, multiple hook rigs and live bait are all used for other species in addition to billfish. Enforcement of such a prohibition would be impossible.

COMMENTS: All tournaments should be "no kill"

RESPONSE: The Councils have considered this measure but have decided not to implement it at this time. However, the Councils intend to reconsider this measure within two years of implementation of this plan.

COMMENTS: Billfish should be designated as gamefish

RESPONSE: The Councils considered this measure but ultimately rejected it because it was believed that the no sale provision accomplished the same thing.

COMMENTS: Reserving the entire fishery for the recreational group is not justified by the data presented

RESPONSE: Quantitative data to determine what the impact of present trends in the fishery will be are not available. However, based on qualitative data, the Councils have concluded that it is in the best interest of the nation to reserve the resource for recreational use.

COMMENTS: The plan is not in the national interest but serves only a few elite fishermen

RESPONSE: The plan is intended to benefit recreational fishermen. While offshore fishing is less accessible than inshore fishing and undoubtedly has fewer participants, it is certainly not limited to a few elite fishermen. In 1986 in New Jersey alone there were more than 600 private boats carrying an average of 5 people per trip on 11,443 offshore big game fishing trips. In addition, there were 3,281 charter trips taken with, presumably, at least four fishermen per trip. While comparable data is not available for other states, it is clear that participation is not limited to a few elite fishermen.

COMMENTS: Reserving billfish for the recreational fishery sets a precedent that may be used to restrict recreational fishing for other species
 Reserving billfish for the recreational fishery sets a precedent that may be used to restrict commercial fishing for other species
 Swordfish and tuna should be reserved for commercial fishermen

RESPONSE: The management regime for each species of fish should be developed on a case by case basis considering the particular characteristics of the species and the fisheries involved in their harvest. Billfish are probably unique in that they are not subject to a directed commercial fishery, have historically had little or no use as food in the U.S., and are probably the most desirable and valuable of all game fish. An appropriate management regime for these species would not necessarily be appropriate for any other species.

COMMENTS: An increased catch of tuna may increase availability of billfish by reducing competition for food

RESPONSE: It is certainly possible that reducing the tuna population may allow closely competing species such as billfish to increase their population size. Whether or not this occurs is beyond the control of this plan since it contains no regulations pertaining to tuna.

COMMENTS: An increase in the catch of billfish may result in an increase in reproduction and availability

RESPONSE: Reproductive potential of the stock is related to adult biomass which will be reduced if catches increase. While the actual stock-recruitment relationship is unknown, at present population levels, it is very unlikely that recruitment will be inversely related to stock size. The opposite is far more likely to be true.

COMMENTS: Time and area restrictions in the PMP should be removed because they have no conservation justification and U.S. fishermen are not subject to the same regulations

RESPONSE: Time and area restrictions in the PMP apply only to foreign vessels fishing for tunas in the EEZ. These measures were implemented to reduce gear conflicts between U.S. and foreign vessels. The potential for gear conflicts in these areas is, if anything, even greater now than when the area closures were implemented.