

CHAPTER 8 TABLE OF CONTENTS

Chapter 8 Table of Contents	8-i
8.0 Final Regulatory Flexibility Analysis	8-1
8.1 Statement of the Need for and Objectives of this Final Rule	8-1
8.2 A Summary of the Significant Issues Raised By the Public Comments in Response to the Initial Regulatory Flexibility Analysis, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Rule as a Result of Such Comments.....	8-1
8.2.1 Workshops	8-1
8.2.2 Time/Area Closures	8-3
8.2.3 Finetooth Sharks	8-4
8.2.4 Atlantic Billfish.....	8-4
8.2.5 Atlantic Bluefin Tuna Domestic Management Measures.....	8-6
8.2.6 Timeframe for Annual Management of HMS Fisheries.....	8-6
8.2.7 Authorized Fishing Gear.....	8-6
8.2.8 Regulatory Housekeeping.....	8-7
8.3 Description and Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply.....	8-9
8.3.1 Workshops	8-9
8.3.2 Time/Area Closures	8-9
8.3.3 Northern Albacore Tuna	8-10
8.3.4 Finetooth Sharks	8-10
8.3.5 Atlantic Billfish.....	8-10
8.3.6 Atlantic Bluefin Tuna Domestic Management Measures.....	8-10
8.3.7 Timeframe for Annual Management of HMS Fisheries.....	8-10
8.3.8 Authorized Fishing Gear.....	8-10
8.3.9 Regulatory Housekeeping.....	8-11
8.4 Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities Which Will Be Subject to the Requirements of the Report or Record.....	8-11
8.5 Description of the Steps the Agency Has Taken to Minimize the Significant Economic Impact on Small Entities Consistent with the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and the Reason That Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect Small Entities Was Rejected.....	8-12
8.5.1 Bycatch Reduction.....	8-13
8.5.1.1 Workshops	8-13
8.5.1.2 Time/Area Closures	8-15
8.5.2 Rebuilding and Preventing Overfishing.....	8-16
8.5.2.1 Northern Albacore Tuna	8-16
8.5.2.2 Finetooth Sharks	8-16
8.5.2.3 Atlantic Billfish.....	8-16

8.5.3	Management Program Structure	8-18
8.5.3.1	Bluefin Tuna Quota Management.....	8-18
8.5.3.2	Timeframe for Annual Management of HMS Fisheries	8-19
8.5.3.3	Authorized Fishing Gears	8-19
8.5.3.4	Regulatory Housekeeping.....	8-20

8.0 FINAL REGULATORY FLEXIBILITY ANALYSIS

The Final Regulatory Flexibility Analysis (FRFA) is conducted to comply with the Regulatory Flexibility Act (5 USC 601 et. seq.) and provides a description of the economic impacts of the various alternatives on small entities. Certain elements required in an FRFA are also required as part of an environmental impact statement (EIS). Therefore, the FRFA incorporates the economic impacts identified in the EIS. The Initial Regulatory Flexibility Analysis was done in the draft EIS and is also contained in the proposed rule.

8.1 Statement of the Need for and Objectives of this Final Rule

Please see Chapter 1 for a description of the need for action.

8.2 A Summary of the Significant Issues Raised By the Public Comments in Response to the Initial Regulatory Flexibility Analysis, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Rule as a Result of Such Comments

NMFS received many comments on the proposed rule and the draft HMS FMP during the public comment period. A summary of these comments and the Agency's responses are included in Appendix D of this document and will be included in the final rule. NMFS did not receive any comments specific to the Initial Regulatory Flexibility Analysis (IRFA), but did receive a limited number of comments related to economic issues and concerns. These comments are responded to with the other comments in Appendix D. The specific economic concerns are also summarized here.

8.2.1 Workshops

The Agency received public comment both in support of and opposed to the protected species workshops. Some commenters were concerned about potential lost revenue on longline trips if bycatch were to be handled correctly, and recommended not limiting these workshops to longline fishermen. Some comments supported extending the workshop requirements to include all HMS fishermen, as well as expanding the release techniques to include additional species. NMFS received many comments suggesting that various combinations of owners, operators, and crew members be required to participate in the workshops. Commenters noted that if the crew members are not required to attend, then the operators should be responsible for training the crew. A few comments supported grandfathering in the industry certified individuals, so that they do not need to attend the first round of mandatory workshops (they would still need to be recertified). Additionally, the Agency received comment on the recertification timeframes, and provided recommendations for scheduling and selecting venues to mitigate any negative impacts to participants.

Public comment both supported and opposed alternative A2, stating that mandatory owner attendance may discourage them from hiring inexperienced operators who may not know how to properly handle sea turtles and other protected resources, handling protected resources wastes time on money making trips, and owners may not be operators.

The Agency received public comment in favor of owners/operators being required to train all crew members onboard. NMFS encourages all workshop participants to disseminate this information to all crew members involved with haul-back or fishing activities, however, is not requiring owners to train crew members at this time.

Alternative A3 was supported by public comment. Commenters suggested that vessel operators should be certified and that they should, in turn, train each individual crew member working aboard their vessel to ensure that the crew is informed and that proper procedures are followed. Operators are encouraged to transfer the knowledge and skills obtained from successfully completing the workshops to the crew members, potentially increasing the proper release, disentanglement, and identification of protected resources. While this alternative would not require crew members to attend the workshops, it is likely that knowledge transfer from operator and owners to crew would be able to disseminate this information in a cost effective manner. In addition, the Agency received several comments opposing the requirement to have crew certified because of their transient nature and the fact that some crew members are not U.S. citizens and may not be available to attend workshops.

The Agency received public comment supporting alternative A5. However, some commenters were concerned about requiring both owners and operators of vessels to be certified. The Agency realizes that many vessel owners may not operate or be present on the vessels during fishing trips; therefore, certifying vessel owners ensures that they are aware of the certification requirements and protocols. The owners are, then, accountable for preventing their vessel from engaging in fishing activities without a certified operator on board.

NMFS received several comments in support of alternative time periods for renewal of certification; however, the Agency prefers to maintain the original preferred alternative of recertification every three years. Recertification every three years would balance the ecological benefits of maintaining familiarity with the protocols and species identification, and the economic impacts of workshop attendance due to travel costs and lost fishing opportunities.

The Agency received comment regarding the need for proxies for dealers attending workshops under alternative A9, the flexibility required in certifying newly hired proxies, and the need for multiple proxies. Alternative A9 was modified to address these comments and allow for dealer proxies. Because not all shark dealer permit holders may be onsite where vessels unload their catches, a local proxy could attend the workshop to obtain the proper training in species-specific shark identification, while allowing the permit holder to meet the certification requirements. Furthermore, since the actual permit holders may not be involved in fish house activities, the workshops would be more effective at decreasing the reported unknown sharks if a proxy whom is directly involved with fish house activities attends and obtains the training in lieu of the permit holder. If a dealer opts to send a proxy, then the dealer would be required to designate a proxy from each place of business covered by the dealer's permit. A proxy would be a person who is employed by a place of business, covered by a dealer's permit, a primary participant in identification, weighing, or first receipt of fish as they are offloaded from a vessel, and involved in filling out dealer reports. According to public comment, NMFS should anticipate turnover in dealer proxies. To address this, the Agency is allowing one-on-one

training sessions that would accommodate the replacement of a proxy whose employment was terminated on short notice. These sessions would be at the expense of the permit holder.

Public comment on the HMS Identification Workshops were supportive of mandatory workshops for Federally permitted shark dealers, but also suggested that these workshops be available to others, such as the recreational and commercial fishery, law enforcement, port agents, and state shark dealers. While these workshops would be mandatory for Federally permitted shark dealers, NMFS would try to accommodate other interested individuals when it is feasible. At well-attended workshops, those persons for whom the workshops are mandatory would be given priority in terms of hands-on instruction.

8.2.2 Time/Area Closures

NMFS also received comments on the time/area closure alternatives. A number of commenters expressed concern over the effort redistribution model used to analyze these alternatives. These commenters felt that pelagic longline vessels were not mobile enough to redistribute effort uniformly and that vessels in a certain area would move to adjacent areas (*e.g.*, vessels homeported in the Gulf of Mexico would stay in the Gulf of Mexico and would not move into the mid-Atlantic bight). NMFS received comments that different approaches to effort redistribution should be considered, particularly for closures of bluefin tuna in spawning areas in the Gulf of Mexico. As a result, NMFS considered redistribution of effort based on an analysis of the mobility of the PLL fleet and known effort displacement currently taking place out of the Gulf of Mexico (see Appendix A). Based on this revised approach, NMFS has determined that the closures in the Gulf of Mexico could still result in an increase in bycatch for some of the species being considered. As a result, NMFS has decided not to move forward with any new time/area closures other than complementary closures for Madison-Swanson and Steamboat Lumps.

During the comment period, NMFS heard from commenters and the peer reviewers that the Agency should design a “decision matrix” that could help to guide the choices that NMFS would have to make between different closures and different species. NMFS interpreted this request to mean that NMFS should decide whether, for example, it is more important to protect spawning BFT during particular times and areas than leatherback sea turtles. If NMFS decided that were the case, then an area would be closed to protect spawning BFT even though it could potentially increase takes of leatherback sea turtles. Related to this idea of a decision matrix, some commenters noted that NMFS should set bycatch reduction goals. For example, NMFS would need to reduce BFT discards by some set percent; under this concept, NMFS would need to find ways to reduce BFT discards by the appropriate percent, possibly to the detriment of other species. Once that percent reduction was made, NMFS would no longer need to reduce BFT discards. Similarly, if NMFS implements measures that reduce BFT discards by more than the decided amount, NMFS could potentially relax some of the measures to bring the reduction down to the pre-decided level. Finally, NMFS received comments from commercial interests indicating that the bycatch reduction goals of the existing closures have already been met and, therefore, the Agency should reopen at least portions of the current closures.

8.2.3 Finetooth Sharks

NMFS received a range of public comments regarding finetooth shark alternatives indicating support and opposition to Alternatives D2-D4, and additional comments, including, but not limited to: comments on gillnet fisheries in general, the use of VMS, the results of the 2002 SCS stock assessment, reporting of HMS by dealers, identification of finetooth sharks, and the accuracy of data attained from MRFSS. All of these comments were considered prior to selection of the preferred course of action for preventing overfishing of finetooth sharks. Additional measures, possibly those analyzed in this document, and/or others, may be necessary to prevent overfishing of finetooth sharks in the future.

8.2.4 Atlantic Billfish

NMFS also received many comments regarding Atlantic billfish alternatives. Commenters strongly suggested that given the feeding habits of blue marlin, mandating circle hooks on artificial lures would significantly reduce the viability of trolling for blue marlin. Based on public comment from scoping and the draft HMS FMP, as well as an examination of post-release mortality data of blue marlin caught on J-hooks, NMFS is allowing anglers on HMS permitted vessels in billfish tournaments to continue to use J-hooks with artificial lures.

NMFS received substantial public comment opposing and supporting circle hook requirements proposed under draft alternatives E2 and E3. A prevalent theme contained in comments opposing mandatory circle hook use, in all or portions of the HMS and billfish recreational fisheries, was that the recreational sector has a minor impact on Atlantic billfish populations relative to the commercial pelagic longline fleet. However, given the relatively small size of the U.S. domestic pelagic longline fleet and the considerable size of the recreational fishing fleet, NMFS determined that it was appropriate to examine this issue from the domestic perspective.

A second important theme in comments opposing mandatory circle hook use under alternatives E2 and E3 was the need for NMFS to promulgate more detailed specifications for circle hooks. NMFS is unable to provide an index of detailed hook specifications for each size circle hook that could be used in the recreational billfish fishery. NMFS is continuing to work on various formulaic definitions of circle hooks that may lead to a more refined hook definition in the future. However, NMFS finds that it is appropriate to require the use of circle hooks in portions of the recreational billfish fishery at this time in an effort to reduce post-release mortalities in the recreational billfish fishery.

NMFS received public comment expressing concern that HMS circle hook requirements may apply to all tournament participants, even non-HMS fishermen participating in large tournaments that may have award categories for species other than HMS. NMFS has refined the phrasing of the alternative to more accurately reflect the intent of this alternative.

NMFS also received comment that tournament operators would need advance notice of impending circle hook regulations to allow for production of rules, advertising, and informing tournament participant of potential circle hook requirements. NMFS surveyed a number of tournament operators in the Atlantic, Gulf of Mexico and Caribbean to better understand various

aspects of tournament operations, and determined that a delayed date of effectiveness of no less than six months would be necessary to minimize adverse impacts to tournament operators and participants. NMFS is preferring an effective date of January 1, 2007 for Atlantic billfish tournament circle hook requirements. This additional six month delay in effectiveness will provide billfish tournament anglers additional time to familiarize themselves and become proficient in the use of circle hooks, while allowing tournament operators to adjust tournament rules, formats, and materials production, as appropriate, thereby minimizing any potential adverse socio-economic impacts.

NMFS received comment recommending that the Agency automatically carry forward any underharvest to the following management period. As noted above, this alternative allows for underharvests to be carried forward. However, given the uncertainty surrounding landings of Atlantic marlin in the Commonwealth of Puerto Rico and the U.S. Caribbean, the United States has made a commitment to ICCAT not to carry forward underharvest until such time as this uncertainty is resolved.

Given that the known level of U.S. recreational marlin landings have been within the 250 fish limit for three of the four reported years, and that the 2002 overharvest was offset by the 2001 underharvest, the ecological benefits of this alternative are likely limited. NMFS received comment on the limited ecological impact that could be categorized into two opposing views and which suggested two different courses of action as a result of the anticipated limited ecological impact. Some commenters suggested that the limited ecological impact was not worth any potential adverse economic impact, even a very limited one, while other commenters suggested that the United States must implement the 250 marlin limit to live up to U.S. international obligations and as part of a strategy to implement appropriate measures to help limit billfish mortality. Implementation of this preferred alternative is anticipated to allow the United States to continue to successfully pursue international marlin conservation measures by fully implementing U.S. international obligations and potentially provide a minor ecological impact with, at most, minor adverse economic impacts.

NMFS received strong public comment opposed to the Atlantic white marlin catch and release alternative. Based on public comment that indicated more significant concerns over potential adverse economic impacts to the fishery if catch and release only fishing for Atlantic white marlin were required, as well as a number of other factors, including but not limited to, the impending receipt of a new stock assessment for Atlantic white marlin and upcoming international negotiations on Atlantic marlin, NMFS has chosen not to prohibit landings of Atlantic white marlin. Additionally, the Agency received substantial comment in support of this measure. The commenters supporting the landings prohibition stated concerns over white marlin stock status, the ESA listing review, and an interest in maintaining leadership at the international level. The implementation of circle hook requirements (alternative E3) is an important first step in reducing mortality in the directed billfish fishery. NMFS will consider catch and release only fishing options for Atlantic white marlin as well as other billfish conservation measures in future rulemakings, as necessary and appropriate.

8.2.5 Atlantic Bluefin Tuna Domestic Management Measures

NMFS received public comment in the past regarding the timing of annual BFT specification publication and that administrative or other delays in publishing the annual BFT specifications can have adverse social and economic impacts due to constituents inability to make informed business decisions. Under the preferred alternative the annual BFT quota specifications established baseline domestic quota category allocations, as well as adjusted those allocations based on the previous years under- and/or overharvest. Any delay in publishing the annual BFT quota specifications would have prolonged the establishment of a baseline quota in any of the domestic categories.

NMFS received a number of comments opposing the removal of the Angling category North/South dividing line and one comment supporting its removal. In response to those comments, NMFS modified preferred alternative F4 to include maintaining the north/south dividing line.

Fishermen have commented that knowing the exact schedule of BFT RFDs prior to the season facilitates planning and scheduling of trips and the preferred alternative F6 should help facilitate the development of timely schedules.

8.2.6 Timeframe for Annual Management of HMS Fisheries

The timeframe for annual management of HMS fisheries preferred alternative G2 was modified because the comment period was extended. The actual compressed fishing year would occur in 2007 rather than 2006 as described in the draft Consolidated HMS FMP. During the public comment period, several commenters expressed concern about the effect of a calendar year management cycle on the availability of quota rollover from the previous calendar year during the January portion of the south Atlantic fishery. Under changes to the BFT management program included in this Consolidated HMS FMP, the January subperiod would be provided with a quota of 5.3 percent of the annual ICCAT allocation.

8.2.7 Authorized Fishing Gear

In regard to authorized gears, there was strong public comment support for the preferred alternative H2 authorizing speargun fishing as a permissible gear type for recreational Atlantic BAYS tuna. NMFS has received written requests, comment at public hearings, and has heard presentations at AP meetings requesting that NMFS authorize the use of speargun fishing gear in the Atlantic tuna fishery. NMFS has received comment that recreational spearfishermen place a high value on spearfishing for tunas and are currently traveling outside of the United States for the opportunity to participate in tunas speargun fisheries.

During the public comment period, numerous comments were received expressing confusion over the current regulatory regime regarding green-stick gear, unease over the potential impacts and intent of the preferred alternative in the draft Consolidated HMS FMP, and concern over potential negative impacts of the green-stick gear. Therefore, the agency does no longer prefer H4, the green-stick authorization alternative.

In regard to buoy gear, the Agency received public comment requesting that commercial vessels be limited to deploying fewer than 35 individual buoy gears. Additionally, commercial fishermen familiar with this gear type requested that they be allowed to attach multiple floatation devices to buoy gears to aid in monitoring and retrieval, as well as allow them to use “bite indicator” floats that will alert them to gears with fish attached. In response to public comment, NMFS modified the preferred alternative to allow fishermen to use more than one floatation device per gear and configure the gear differently depending on vessel and crew capabilities, or weather and sea conditions. This increased flexibility may result in positive social impacts and increased safety at sea.

The Agency has also received public comment in support of the clarification of the allowance of cockpit gears associated with alternative H7.

8.2.8 Regulatory Housekeeping

The public also provided comment on the proposed regulatory housekeeping alternatives. NMFS requested public comment regarding whether or not to include a definition of “fishing floats” in the regulations, and on potential language for a “float” definition. Based on these comments, NMFS has chosen not to prefer alternative I1(b) in this document. Several commenters indicated that the number of floats is not an appropriate gauge to determine the type of fishing gear that is being deployed, and that the presence of “bullet floats,” anchors, or the type of mainline would be better indicators. Other commenters stated a float requirement would be an unnecessary burden that could diminish the flexibility of vessel operators to participate in different fishing activities, depending upon the circumstances. Finally, consultations with NMFS Office of Law Enforcement indicated that the float requirement in alternative I1(b) would not be practical. For these reasons, alternative I1(b) is no longer preferred. Although alternative I1(b) was preferred in conjunction with alternative I1(c) in the draft HMS FMP, NMFS believes that the objective of this alternative can be effectively achieved by implementing alternative I1(c) alone, species composition of catch.

On the basis of public comment, the list of demersal “indicator” species associated with alternative I1(c) has been modified from the Draft HMS FMP by removing silky, great hammerhead, scalloped hammerhead, and smooth hammerhead sharks from the list, and by adding tilefish, blueline tilefish, and sand tilefish to the list. NMFS believes that these changes are appropriate because those shark species can be caught on both pelagic and bottom longlines, and because the tilefish species are representative of demersal fishing activity.

NMFS received comments indicating that alternative I1(c) could adversely impact longline vessels that fish, at least part of a trip, in HMS closed areas and that catch both demersal and pelagic species on those trips. Similar to the comments received regarding alternative I1(b), there were concerns that, by establishing a species threshold when fishing in HMS closed areas, this alternative would restrict the flexibility of longline vessel operators to participate in different fishing activities depending upon the circumstances. Also, adverse economic impacts could result if vessel operators are unable to retain a portion of their catch that otherwise would have been retained on mixed fishing trips in the closed areas, or if they must necessarily choose to fish outside of the closed areas. NMFS received other comments indicating that there could be additional costs on vessels if they are boarded at sea by enforcement, and it was necessary to

retrieve or observe fish in the hold in order to calculate the percentages of demersal and pelagic species possessed onboard. The Agency, however, still finds that this preferred alternative is important in maintaining existing time/area closures.

In regards to alternative I2(b) regarding that the second dorsal fin and anal fin remain on all sharks through landing, NMFS received various comments supporting the preferred alternative, as well as comments confirming that retention of second dorsal and anal fins through landing could improve shark identification and species-specific landing data. However, NMFS also received comments indicating that this alternative would do little to improve shark identification. NMFS received comment that although these species have valuable fins, retaining them until landing was acceptable. The Agency received a comment opposing this alternative due to additional time and revenue losses that may result from removing the smaller/secondary fins after docking. While initial adjustments may have to be made to the offloading and processing procedures, in the long-term, improved quota monitoring and stock assessment data as a result of this alternative could result in a larger quota and therefore larger net revenues for both the fishermen and the dealer.

Public comment suggests that, among active fishery participants, a requirement for handlines to remain attached to all vessels would reduce the number of handlines that could be fished or deployed. Operationally, it may also be less efficient to fish with several attached handlines as they may be more prone to entanglement. Because this alternative could restrict or limit fishing effort, it is projected to produce unquantifiable positive ecological impacts, including a reduction in the bycatch of undersized swordfish, other undersized species, protected species, and target species catches. Based upon public comment the practice does not appear to be widespread, but it may be growing among a small number of vessel operators primarily targeting swordfish in the East Florida Coast closed area. According to public comment, recreational swordfish catches would most likely be affected, as that is the primary target species. If few recreational vessels are currently fishing with unattached handlines, then any social or economic impacts associated with this alternative would be minimal.

NMFS prefers alternative I7(b) regarding allowing the option for electronic reporting for BFT dealer reports, and has received public comment supporting this alternative. The preferred alternative would provide an option for BFT dealers to submit certain reports electronically over the Internet once such a system is developed, but would not require it.

Based upon public comment regarding requiring vessel owners to report non-tournament recreational landing of North Atlantic swordfish and Atlantic billfish under preferred alternative I9(b), this alternative has been modified slightly from the draft HMS FMP by specifying that a vessel owner's designee may also report landings, in lieu of the owner. NMFS received comment indicating that this alternative could potentially disadvantage absentee vessel owners. In consideration of this comment, NMFS has modified the preferred alternative to allow an owner's designee to report.

During the comment period, NMFS received comments from several states who felt that NMFS was exceeding their authority with the permit condition. NMFS believes that the Magnuson-Stevens Act does provide the authority to manage HMS species throughout their

range (16 U.S.C. 1812 Section 102). NMFS could opt to pre-empt state's authority either through the Magnuson-Stevens Act or through ATCA. However, NMFS prefers to work with states and the Atlantic and Gulf States Marine Fisheries Commissions towards consistent regulations that meet both international and domestic goals because each state is different and the fishermen in each state prefer to fish for different HMS (*e.g.*, fishermen in the Gulf of Mexico may fish for Atlantic sharpnose sharks while fishermen in New Jersey would not) and use different gears.

Finally, NMFS received several comments in general regarding the information presented regarding the HMS recreational sector. Section 3.5.2 provides detailed information regarding the data available and past research concerning the HMS recreational fisheries. Economic data on recreational data is difficult to collect and challenging to interpret. Nevertheless, efforts have been undertaken to improve, update, and expand upon the economic information regarding the HMS recreational fisheries.

8.3 Description and Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

NMFS considers all permit holders to be small entities as reflected in the Small Business Administration's (SBA) size standards for fishing entities. All permit holders are considered to be small entities because they either had gross receipts less than \$3.5 million for fish-harvesting, gross receipts less than \$6.0 million for charter/party boats, or 100 or fewer employees for wholesale dealers. These are the SBA size standards for defining a small versus large business entity in this industry. A description of the fisheries affected, the categories and number of permit holders, and registered tournaments can be found in Chapter 3.

8.3.1 Workshops

The alternatives considered for requiring attendance at workshops on protected species release, disentanglement, and identification for pelagic longline, bottom longline, and gillnet owners and operators (A2, A3, and A5) are estimated to apply to 549 vessels permitted to fish for HMS with longline gear and 20 shark gillnet vessels. The preferred alternatives for shark identification workshops (A9) would impact approximately 336 Federally permitted shark dealers.

8.3.2 Time/Area Closures

The preferred time/area closure alternative (B4) to implement complementary HMS time/area closures in the Madison-Swanson and Steamboat Lumps Marine Reserve would apply to 549 pelagic and bottom longline permitted vessels, but would likely impact few pelagic or bottom longline vessels based on past observer and logbook data indicating only one pelagic longline and two bottom longline sets reported in those areas. This preferred alternative would also apply to 4,173 permitted HMS charter/headboat businesses and 25,238 HMS angling permit holders. However, the impacts to charter/headboat businesses and recreational fishermen are not expected to be substantial since this alternative includes a seasonal surface trolling allowance. In addition, many of these businesses have already been impacted by the previously implemented Madison-Swanson and Steamboat Lumps Marine Reserves established by the GOMFMC, and

therefore are not likely to face further economic impacts as a result of the preferred complimentary HMS closure in the same area.

8.3.3 Northern Albacore Tuna

The preferred alternative considered for northern albacore management (C3), which would establish the foundation for developing an international rebuilding program through ICCAT, would apply to all tuna categories, a total of 34,501 permit holders. However, the preferred alternative does not have any direct impacts on small entities in the short term because it does not require any changes to direct management measures at this time.

8.3.4 Finetooth Sharks

The preferred alternative for finetooth sharks, a strategy for preventing overfishing (D4), also would not have any direct impacts on small entities but could affect 20 commercial vessels and potentially some of the 25,238 HMS angling permit holders. The non-preferred commercial management alternative, however, would apply to the estimated 20 shark gillnet vessels that are permitted and could apply to all commercial shark permit holders depending on what the management measures would be. The non-preferred recreational management alternative would apply to the 25,238 HMS angling permit holders; however, a small percentage of these recreational anglers target small coastal sharks or finetooth sharks.

8.3.5 Atlantic Billfish

The preferred Atlantic billfish Alternatives E3 and E6 would apply to 25,238 Angling, 4,173 CHB, and up to 4,824 valid General (those participating in tournaments) category permits. In addition, there are currently 256 registered HMS tournaments that would be impacted by the Atlantic billfish alternatives.

8.3.6 Atlantic Bluefin Tuna Domestic Management Measures

The alternatives being considered for bluefin tuna management for time-periods and subquota allocations would primarily apply to the 4,824 General category tuna permit holders. However, other bluefin tuna alternatives to streamline management processes would apply to all tuna categories, a total of 34,501 permit holders (Section 3.9.4).

8.3.7 Timeframe for Annual Management of HMS Fisheries

The alternatives that consider changing the timeframe for annual management of HMS fisheries from a fishing year to a calendar year would essentially apply to all 36,925 HMS permit and tournament registrants, including dealer permits. Under the preferred alternative (G2), only the shark fishery would not be impacted by the shift in annual management timeframe because it is already managed on a calendar year basis at this time.

8.3.8 Authorized Fishing Gear

Several alternatives allowing or defining authorized gears would apply to small entities. The authorization of recreational speargun fishing for Atlantic tunas (H2) would apply to an

unknown number of speargun users. This preferred alternative may also positively impact the 4,173 CHB permit holders by potentially increasing charter revenues. The non-preferred alternative to allow speargun in both recreational and commercial tuna fisheries (H3) would also apply directly to the 4,824 General category and 4,173 CHB permit holders. Alternative H5, which address the utilization of unattached handlines, would apply to 279 permit holders (88 swordfish handgear and 191 swordfish directed). The preferred alternative clarifying the authorized use of secondary cockpit gears (H7) would apply to all HMS permit holders.

8.3.9 Regulatory Housekeeping

Finally, a variety of regulatory housekeeping preferred alternatives would apply to small entities. Specifically, the preferred change to the definitions of pelagic and bottom longline (alternative I1(c)) would apply to the 576 permitted pelagic and bottom longline vessels. The preferred alternative requiring smaller second dorsal and anal fins would need to remain attached to the shark (alternative I2(b)) would apply to the 240 directed shark and 312 incident shark permit holders. The preferred HMS retention limit requirements (I3) would apply to the 621 permitted shark and swordfish dealers and the 416 permitted Atlantic tuna dealers. The change in the definition of the East Florida Coast Closed Area (I4) is unlikely to directly impact any small entities but could affect any commercial permit holders fishing in that area. The preferred alternative prohibiting the retention of Atlantic billfish by vessels issued commercial permits and operating on a non-for-hire trip or outside of a tournament (I6(b)) would apply to General category, bottom longline, and shark gillnet vessels utilizing rod and reel gear, but it is unlikely that many would be impacted by this proposed regulation. The preferred alternative to amend the HMS regulations to provide an option for Atlantic tunas dealers to submit required BFT reports using the Internet (I7(b)) would apply to the 416 Atlantic tuna permit dealer holders. The preferred alternative requiring vessel owners or proxies to report non-tournament recreational landings of North Atlantic swordfish and Atlantic billfish (I9(b)) would apply to 4,173 CHB permit holders and 25,238 Angling permit holders, but it is not expected that this proposal would impact many entities. Finally, the preferred alternative requiring recreational vessels with a Federal permit to abide by Federal regulations (I11(b)), regardless of where they are fishing, would potentially apply to 25,238 Angling, 4,173 CHB, and up to 4,824 valid General (those participating in tournaments) category permits.

Other sectors of the HMS fisheries such as dealers, processors, bait houses, and gear manufacturers, some of which are considered small entities, might be indirectly affected by the preferred alternatives, particularly time/area closures, Atlantic billfish, and authorized gear alternatives. However, the rule does not apply directly to them, unless otherwise noted above. Rather, it applies only to permit holders and fishermen. As such, economic impacts on these other sectors are discussed in Chapters 4, 6, and 7.

8.4 Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities Which Will Be Subject to the Requirements of the Report or Record

None of the preferred alternatives in this document would result in additional reporting, record-keeping, and compliance requirements that would require new Paperwork Reduction Act filings. However, some of the preferred alternatives could modify existing reporting and record-

keeping requirements. These include workshops, coordination efforts directed at gathering additional information about finetooth shark mortality, and bluefin tuna dealer reporting. The preferred alternatives for workshops (A2, A3, A5, A6, A9, and A16) would require record-keeping by NMFS to record attendance at workshops and the certification status of pelagic and bottom longline vessel owners and operators, as well as shark gillnet owners and operators and shark dealers and proxies. This Agency record keeping would not have an impact on small entities although small entities will need to keep their own certificates and may decide to keep copies of certificates for their own records. Attending workshops would also be a change in compliance.

In addition, the finetooth shark preferred alternative (D4) may expand the coverage of the current HMS observer programs. In addition, this preferred alternative would result in efforts to expand data that are currently collected by NMFS observers on shrimp trawl vessels to include finetooth shark and other HMS species of interest. Fishermen themselves would not need to change reporting.

Finally, under regulatory housekeeping, the preferred alternative to allow bluefin tuna dealers the option to report electronically (I7(b)) once a system is developed and is made available would modify current reporting requirement, but would not result in additional reporting or burden. In fact, this option may reduce the potential need to report the same data on multiple reports for those some small entities that chose this option.

In addition to the reporting and record-keeping requirements of the preferred alternatives, there are also compliance requirements associated with the preferred alternatives. These compliance requirements include limiting billfish tournament participants to using only non-offset circle hooks when using natural baits or natural bait/artificial lure combinations (E3), requiring the retention of shark second dorsal and anal fins (I2(b)), and establishing the minimum and maximum number of floats for bottom longline and pelagic longline gear definitions (I1(b)).

The other preferred alternatives, which are outlined in Chapter 2, would change quota allocations, timeframes, authorized gear types, definitions, and other management measures, but would not likely change reporting or compliance in the fishery.

8.5 Description of the Steps the Agency Has Taken to Minimize the Significant Economic Impact on Small Entities Consistent with the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and the Reason That Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect Small Entities Was Rejected

One of the requirements of an FRFA is to describe any alternatives to the proposed rule that accomplish the stated objectives and that minimize any significant economic impacts. These impacts are discussed below and in Chapters 4 and 6 of this document. Additionally, the Regulatory Flexibility Act (5 U.S.C. § 603 (c) (1)-(4)) lists four general categories of “significant” alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are:

1. Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;
2. Clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;
3. Use of performance rather than design standards; and,
4. Exemptions from coverage of the rule for small entities.

As noted earlier, NMFS considers all permit holders to be small entities. In order to meet the objectives of this final HMS FMP and the statutes (*i.e.*, Magnuson-Stevens Act, ATCA, ESA) as well as address the management concerns at hand, NMFS cannot exempt small entities or change the reporting requirements for small entities. Among other things, this final HMS FMP would set quotas for the fishing season, retention limits for the recreational fishery, and gear restrictions, all of which would not be as effective with differing compliance and reporting requirements. Thus, there are no alternatives discussed which fall under the first and fourth categories described above. Alternatives under the second and third categories are discussed below with the alternatives that were considered but not preferred.

As described below, NMFS considered a number of alternatives that could minimize the economic impact on small entities, particularly those pertaining to workshops, time/area closures, northern albacore tuna, finetooth sharks, Atlantic billfish, bluefin tuna quota management, timeframe for annual management, authorized fishing gears, and regulatory housekeeping measures.

8.5.1 Bycatch Reduction

8.5.1.1 Workshops

The preferred alternatives for protected species safe handling, release, and identification workshops require mandatory workshops and certification on a three year renewal timeline (A6) for all HMS pelagic and bottom longline vessel owners (A2) and operators (A3) and shark gillnet vessel owners and operators (A5). These measures were designed to minimize the economic impacts on fishermen, while simultaneously complying with 2003 BiOp and the post-release mortality targets for protected resources established in the June 2004 BiOp. Alternative A2 is estimated to have an economic impact to each bottom and pelagic longline vessel owner of up to \$281 and \$448 in potentially lost revenue share based on 2004 logbook data, as well as unquantified travel costs to attend a workshop. The aggregate economic impact is estimated to be between \$154,269 and \$258,048 in the first year. Longline vessel operators would also be impacted by the preferred alternative, but it might not impact the economic well-being of the small business for which they work. In addition, the estimated twenty shark gillnet owners that would be participating in required workshops would each have an economic impact of up to \$424 in lost revenue share based on 2004 logbook data, as well as unquantified travel costs to attend a workshop.

Specifically, under these alternatives, NMFS would strive to host a number of workshops in regional fishing hubs in order to minimize travel and lost fishing time. Besides the costs of

travel and lost time, there would be no additional costs for workshop participants. NMFS would attempt to hold workshops during periods when the fishery is typically inactive, effectively minimizing lost fishing time. To minimize the overall economic cost of these workshops, the preferred alternatives would limit required participation in these workshops to owners and operators. Owners and operators could pass information and appropriate direction to their crew concerning release, disentanglement, and identification of protected resources. NMFS would also select a recertification period that would allow for sufficient retraining to maintain proficiency and update fishermen on new research and development related to the subject matter while not placing an excessive economic burden on the participants due to lost fishing time and travel resulting from attending a recertification workshop in person. In addition, to lower the costs of recertification, NMFS is considering the use of alternative sources of media including CD-ROM, DVDs, or web-based media that would not result in travel costs or lost fishing time, as well as allowing private certified trainers to provide training at tailored times and locations to minimize any costs.

Other alternatives considered were voluntary workshops for longline fishermen (A1) and mandatory workshops that would include crewmembers in addition to owners and operators (A4). Several alternatives would have less onerous economic impacts to small businesses relative to the preferred alternatives. These include: the No Action alternative (A1) and mandatory workshops for only owners or only operators. These alternatives would not satisfy the RPA under the June 2004 BiOp issued pursuant to Section 7 of the ESA.

The preferred alternative for identification workshops, which would require mandatory workshops for all Federally permitted shark dealers (A9), is preferred because species-specific identification of offloaded shark carcasses is much more difficult than other HMS as evidenced by the large proportion of “unclassified” sharks listed on shark dealer logbooks. The Agency would attempt to minimize economic impacts to shark dealers by holding workshops at fishing ports to minimize travel costs and during non-peak fishing times to minimize perturbations to business activity, to the extent possible. As a result of public comment, dealers would also have the option to specify proxies to attend workshops in order to increase flexibility and minimize costs. Similar measures as those being considered for disentanglement and identification recertification are being considered for the identification workshops for shark dealers in order to minimize the economic impacts caused by this measure.

Other alternatives in addition to the No Action alternative were voluntary HMS identification workshops (A8), mandatory identification workshops for swordfish and tuna dealers (A10), mandatory identification workshops for all commercial longline vessel owners (A11) and operators (A12), mandatory identification workshops for all commercial vessel (longline, CHB, General category, and handgear/harpoon) owners (A13) and operators (A14), and mandatory identification workshops for all HMS Angling permit holders (A15). The economic impacts of these alternatives are detailed in Chapter 6. The No Action (A7) and voluntary HMS identification workshop alternative (A8) would have less onerous economic impacts relative to the preferred alternative. However, these alternatives would not address the persistent problems with species-specific shark identification in dealer reports nor satisfy the requirements and goals of this final HMS FMP or aid in rebuilding the shark fishery.

In addition to the type of workshops, NMFS considered two additional renewal timetables of two and five years. A renewal timetable of five years would have a less adverse impact than the preferred timetable of three years. However, recertification every five years for bycatch release and disentanglement workshops would allow a more extensive period of time to lapse between certification workshops than necessary to maintain proficiency and provide updates on research and development of handling and dehooking protocols. In a similar fashion, recertification every five years for HMS identification workshops would also allow a more extensive period of time to lapse between certification workshops than necessary to maintain proficiency in species identification.

8.5.1.2 Time/Area Closures

The preferred alternatives for time/area closures, which would implement complementary measures in Madison-Swanson and Steamboat Lumps closures (B4) and establish criteria to be considered when implementing new time/area closures or making modifications to existing time/area closures (B5), were designed to minimize economic impacts incurred by fishermen, while simultaneously reducing the bycatch of non-target HMS and protected species, such as sea turtles, in Atlantic HMS fisheries. Alternative B4 would establish complementary HMS regulations in the Madison-Swanson and Steamboat Lumps closures with minimal economic impacts. Creating these complementary HMS regulations would consolidate and simplify requirements for fishermen, and therefore simplify compliance. This alternative would also implement compatible regulations that would provide for a seasonal allowance (May – October) for surface trolling to partially alleviate any negative economic impacts associated with the closures or the HMS recreational and charter/headboat sector.

Other alternatives considered in addition to the No Action alternative were a closure of 11,191 nm² in the central Gulf of Mexico to pelagic longline gear (B2(a)), a closure of 2,251 nm² in the Northeast to pelagic longline gear (B2(b)), a closure of 101,670 nm² in bluefin tuna spawning areas in the Gulf of Mexico (B2(c)), a closure west of 86° W Longitude in the Gulf of Mexico to pelagic longline gear (B2(d)), a closure of 46956 nm² in the Northeast to pelagic longline gear (B2(e)), a prohibition on the use of bottom longline gear in an area off the Florida Keys to protect endangered smalltooth sawfish (B6), and a prohibition on the use of pelagic longline gear in HMS fisheries in all areas (B7). These closures alternatives were not preferred due to large economic impacts with conflicting ecological benefits between species. The details of the economic impacts associated with these other alternatives are detailed in Section 4.1.2 and Chapter 6. In addition to the closure alternatives, modifications to existing closures were also considered for the Charleston Bump closure (B3(a)) and the Northeastern U.S. closure (B3(b)) which provided some economic relief but did not meet ecological needs.

Alternative B5 would establish criteria that would guide future decision-making regarding implementation or modification of time/area closures. This would provide enhanced transparency, predictability, and understanding of HMS management decisions. The time/area closure criteria would not have immediate impacts. Any ecological, social, or economic impacts of a specific closure or modified closure would be analyzed in the future when that specific action is proposed.

8.5.2 Rebuilding and Preventing Overfishing

8.5.2.1 Northern Albacore Tuna

The preferred alternative for northern albacore management, which would establish the foundation for developing an international rebuilding program (C3), was designed to address rebuilding of the northern albacore tuna fishery while simultaneously minimizing economic impacts incurred by fishermen. This alternative would have minimal economic impacts, because it would not implement any additional restrictions at this time. Even under an international plan, the United States is a small participant in this fishery and only has a small allocation that it does not even fully harvest at this time.

Other alternatives considered were No Action (C1) and taking unilateral proportional reductions in northern albacore tuna harvest (C2). Taking unilateral action to address northern albacore tuna on the part of the United States would likely not be effective in rebuilding the stock because the United States is a small participant in this fishery, and would have larger economic impacts than the preferred alternative.

The No Action alternative would have the same economic impacts as the preferred alternative because NMFS has been promoting an international rebuilding plan at ICCAT. In a prior rulemaking, NMFS addressed the same northern albacore tuna alternatives but did not incorporate them into the HMS FMP. The No Action alternative is rejected, because it would not include the rebuilding strategy in the FMP.

8.5.2.2 Finetooth Sharks

The preferred alternative for finetooth shark management (D4) was designed to address overfishing while minimizing economic impacts incurred by fishermen and potential negative ecological impacts. This alternative would be expected to have minimal to no economic impacts, because no new restrictions are being proposed at this time. Long-term, the alternative would have positive ecological impacts by addressing finetooth mortality in HMS and other fisheries and positive economic impacts if the fishery is sustained.

Other alternatives considered were No Action (D1), commercial management measures (D2), and recreational management measures (D3). Only the No Action alternative would have less economic impact relative to the preferred alternative. However, this alternative was not preferred because it would not facilitate efforts to address overfishing of finetooth sharks.

8.5.2.3 Atlantic Billfish

The preferred alternatives for Atlantic billfish management, which include requiring the use of non-offset circle hooks when using natural baits in tournaments (E3) and implementing the ICCAT marlin landings limits (E6), were designed to minimize economic impacts incurred by recreational fishing sector, while simultaneously enhancing the management of the directed Atlantic billfish fishery. Specifically, alternative E3 would likely have a minimal economic impact, since it would not affect all billfish recreational anglers, only tournament participants.

Therefore, the impacts on hook manufactures, retailers, and anglers would likely be limited given that J-hooks would continue to be permitted outside of tournaments and within tournaments with artificial lures. In addition, delayed implementation to 2007 would help lower any potential economic impacts due to supply and demand changes. Impacts on tournaments would also likely be minimal, given the increase in the number of tournaments that provide special award categories or additional points for billfish captured and released on circle hooks. Alternative E3 would also likely have high compliance rates given the self-policing that is likely to occur among tournament participants competing for prizes, as well as the increasing use of tournament observers.

Alternative E6 is the preferred alternative because management measures can be implemented in response to the needs of a given fishing year to ensure maximum utilization of the ICCAT landing limit. The alternative considers three levels of management measures based upon marlin landing thresholds to minimize the economic impact. When it is not expected that marlin landings will approach the threshold for action, then no in-season actions would occur and there would not be any economic impacts. If the threshold for action were achieved, minimum size requirements for Atlantic marlins would increase to a level sufficient to curtail landings. Finally, if the ICCAT landing limits were achieved in any one year, the fishery would shift to a catch and release only fishery for the remainder of that year. This last scenario would be unlikely given historical landings and minimum size requirements that would occur at the action threshold. Under the preferred calendar year management alternative (G2), alternative E6 also would help reduce any disproportionate economic impacts to CHB operators, tournaments, and anglers who fish for marlin late in the fishing year or in late season tournaments by providing anglers the greatest opportunity to land marlin over the entire length of the fishing year. Alternative E6 is estimated to potentially result in \$1.3 to \$2.7 million in economic impacts as compared to the \$13.4 to \$20.0 million in impacts for catch-and-release only for Atlantic blue and white marlin (Alternatives E7 and E8 combined) resulting in an estimated one to two tournament cancellations and unquantified impacts on CHB businesses.

Other alternatives considered were No Action (E1), limiting all participants in the Atlantic HMS recreational fishery to using only non-offset circle hooks when using natural baits or natural bait/artificial lure combinations in all HMS fisheries (E2), increasing the minimum size limit for Atlantic white and/or blue marlin (E4), implementing recreational bag limits of one Atlantic billfish per vessel per trip (E5), allowing only catch and release fishing for Atlantic white marlin (E7), and allowing only catch-and-release fishing for Atlantic blue marlin (E8). Only the No Action alternative would have less onerous economic impacts relative to the preferred alternative. However, the No Action alternative would not satisfy the requirements and goals of implementing the ICCAT recommendations under ATCA, rebuilding the Atlantic blue and white marlin fishery under the Magnuson-Stevens Act, or the objectives of the HMS FMP.

8.5.3 Management Program Structure

8.5.3.1 Bluefin Tuna Quota Management

The preferred alternatives for bluefin tuna quota management include revised General category time-periods and subquotas to allow for a formalized winter fishery (F3(c)), clarified procedures for calculating the Angling category school size-class subquota allocation (F4), modification of the bluefin tuna specification process and streamlining annual under/overharvest procedures (F6), an individual quota category carryover limit and authorization of the transfer of quota exceeding limit (F8), and revised and consolidated criteria that would be considered prior to performing a BFT inseason action (F10). These preferred alternatives were designed to minimize economic impacts incurred by fishermen, while simultaneously enhancing and clarifying bluefin tuna quota management and inseason actions.

Alternative F3(c) would strike a balance between providing consistent quota allocations and having the flexibility to amend them in a timely fashion. This alternative would slightly reduce General category quota from early time periods, thereby allowing for a formal winter General category bluefin tuna fishery to take place during the months of December and January, and therefore would increase regional access. By shifting the allocated quota from the June through August time-period, which has an overall higher allocation, to a later time-period any adverse impacts would be mitigated by the increased revenue generated in the later time-period. In addition, the fishermen from the Northeast are not precluded from fishing in southern areas during winter bluefin tuna season.

Alternative F4 would clarify the procedures NMFS uses in calculating the ICCAT recommendation regarding the eight percent tolerance for BFT under 115 cm. It would also maintain the north/south dividing line that separates the Angling category. This alternative is not likely to have an economic impact.

Alternative F6 would simplify quota allocations by eliminating the need to allocate each domestic quota categories' baseline allocation each year, as the allocation percentages and the actual quota equivalents (measured in metric tons) would be codified in the regulations implementing the consolidated HMS FMP at least until ICCAT alters its BFT TAC recommendation. This alternative would have positive economic impacts to the domestic BFT fishery as a whole by allowing BFT fishery participants, either commercial or recreational in nature, to make better informed decisions on how to best establish a business plan for the upcoming season.

Alternative F8 would have some economic impacts as a result of limiting the amount of underharvest of the bluefin tuna quota that could be rolled over from one year to the next within a category. However, this alternative was designed to mitigate any impacts by allowing NMFS to redistribute quota exceeding the proposed 100 percent rollover cap to the Reserve or to other domestic quota categories, provided the redistributions are consistent with ICCAT recommendations and the redistribution criteria.

Alternative F10 would result in slightly more positive economic impacts as the criteria NMFS must consider when making an inseason action determination would be consolidated and consistent regardless of what type of inseason action is being considered. This would minimize confusion and provide additional transparency to the management process.

Other alternatives considered in addition to the No Action (F1, F5, and F9) alternatives were establishing General category time-periods, subquotas, and geographic set asides annually via framework actions (F2); establishing monthly General category time-periods and subquotas (F3(a)); revising the General category time-periods and subquotas to allow for a formalized winter fishery with different time-period allocations (F3(b) and (d)); eliminating the underharvest quota carryover provisions (F7), and eliminating the BFT inseason actions (F10). These additional alternatives would not likely reduce overall impacts to the fishery as a whole further relative to the preferred alternatives.

8.5.3.2 Timeframe for Annual Management of HMS Fisheries

The preferred alternative for the timeframe for annual management of HMS fisheries, which would shift the time frame to a calendar year (January 1 to December 31 (G2)), was designed to minimize economic impacts on HMS fisheries and simplify HMS fishery management and reporting to ICCAT. This alternative would not impact the shark fishery, since that fishery is already operating under a calendar year. The shift in the other HMS fisheries' timeframe for annual management would establish consistent timing between U.S. domestic and international management programs, reducing the complexity of U.S. reports to ICCAT and creating more transparent analyses in the U.S. National Report. Setting an annual quota and other fishery specifications on a multi-year basis for bluefin tuna could mitigate any potential negative impacts associated with reduced business planning periods that may result from a calendar year timeframe. The flexibility established in alternative E6 for billfish could partially mitigate any negative regional economic impacts to marlin tournaments, charters, and other related recreational fishing businesses. To facilitate the transition to a calendar year management timeframe for bluefin tuna and swordfish, the 2007 fishing year would be abbreviated from June 1, 2007 through December 31, 2007, which could provide slightly higher quotas during that time period and slight positive impacts for fishermen. The specifics of this abbreviated season would be implemented under a separate action.

Other alternatives considered were to maintain the current fishing year (G1) and to shift the fishing year to June 1 - May 31 for all HMS species (G3). These alternatives are not likely to result in economic impacts substantially different than the preferred alternative; however, they would not meet the objectives of this action.

8.5.3.3 Authorized Fishing Gears

The preferred alternatives for authorized gears, which would authorize speargun fishing in the recreational Atlantic tuna fishery (H2), authorize buoy gear for the commercial swordfish fishery (H5), and clarify the allowance of hand-held cockpit gear (H7), were designed to reduce the economic impacts to fishermen, in the case of H5, and enhance the economic opportunities in recreational and commercial fishing. Specifically, alternative H2 would enhance economic

opportunities in the tuna recreational fishery by including a new authorized class of recreational fishing, speargun fishing.

The swordfish handgear fishery may currently utilize individual handlines attached to free-floating buoys, however, preferred alternative I5(b) would require that handlines used in HMS fisheries be attached to a vessel. Alternative H5 would change the definition of individual free-floating buoyed lines, that are currently considered to be handlines, to “buoy gear,” allowing the commercial swordfish handgear fishery to continue utilizing this gear type. Alternative H5 would explicitly authorized this gear type but limit vessels to possessing and deploying no more than 35 individual buoys with each having no more than two hooks or gangions attached. The economic impact of this alternative would likely be minimal, since the upper limit on the number of buoys is based on information obtained about the fishery through public comment, and based on what NMFS has identified as the manageable upper limit for the commercial sector.

Finally, alternative H7 would also likely reduce confusion over the allowable use of secondary cockpit gears to subdue HMS captured on authorized gears. The use of these secondary gears might result in positive economic benefits from anticipated increases in retention rates.

Other alternatives considered in addition to No Action were to authorize speargun in both the commercial tuna handgear and recreational tuna fisheries (H3), authorizing green-stick fishing gear (H4), and authorizing buoy gear in the commercial swordfish handgear fishery with 50 buoys with 14 hooks each (H6). None of the non-preferred alternatives would have less economic impacts than the preferred alternatives.

8.5.3.4 Regulatory Housekeeping

The preferred alternatives for regulatory housekeeping items were designed to minimize economic impacts, while also clarifying regulatory definitions and requirements, facilitating species identification, and enhancing regulatory compliance.

The preferred alternative I1(c), which would differentiate between BLL and PLL gear by using the species composition of catch landed, would more clearly define the difference between BLL and PLL gear using a combination of gear configuration and performance standards based on the composition of catch landed. This would clarify the difference between these two gear types and enhance compliance with time/area closures that place restrictions on these two gear types. There could be some, but likely limited, economic impacts to vessels that may currently fish in gear restricted time/areas closures that do not conform to the proposed BLL and PLL gear specifications and performance standards. This performance based standard could adversely impact those longline vessels that regularly target both demersal and pelagic species on the same trip. Other alternatives considered in addition to the No Action alternative were to specify maximum and minimum number of floats for BLL and PLL gear (I1(b)) require time/depth recorders on all HMS longlines (I1(d)) and base closures on all longline vessels (I1(e)). Only the No Action alternative could have less onerous economic impacts relative to the preferred alternatives. However, the No Action alternative would not address the Agency’s concerns with differentiating between bottom and pelagic longline gear.

The preferred alternative for shark identification, which would require that the second dorsal fin and anal fin remain attached on all sharks (I2(b)), addresses issues associated with shark species identification, but would be flexible enough to still allow fishermen to remove the most valuable fins in order to minimize the economic impacts of this alternative. Fishermen could experience, in the short-term, some adverse economic impacts associated with lower revenues associated with keeping the second dorsal and anal fins on sharks. Other alternatives considered in addition to the No Action alternative (I2(a)) were to require the dorsal and anal fin on all sharks except lemon and nurse sharks (I2(c)) and to require all fins on all sharks be retained (I2(d)). Some alternatives could have fewer economic impacts relative to the preferred alternative. These include the No Action alternative and the alternative requiring the dorsal and anal fin on all sharks except lemon and nurse sharks (I2(c)). These alternatives, however, would not satisfy enforcement and species identification needs.

The preferred alternatives I3(b) and I3(c), which would prohibit the purchase or sale of HMS from vessels in excess of retention limits, would enhance compliance with current regulations by consolidating the requirement for both vessels and dealers. These alternatives would have minimal economic impact on dealers and vessels following the current retention limits. The only additional alternative considered was No Action, which would have less economic impact than the preferred alternatives but would not satisfy the enforcement or monitoring objectives.

The preferred alternative I4(b), which would amend the Florida East Coast closed area, would clarify the regulations regarding this closed area and make them consistent with the boundary of the EEZ. The only additional alternative considered was No Action. Neither alternative is expected to have any economic impact since fishing activity is likely to be limited in this small area.

The preferred alternative I5(b), which would amend the definition of handline gear to require that they be attached to a vessel, would clarify the definition of handline. The economic impact of this new definition would be minimal since unattached handline gear would be defined as “buoy gear” under alternative H5. Other alternatives considered were No Action (I5(a)) and to require handlines be attached to recreational vessels only (I5(c)). These two alternatives could have less economic impacts relative to the preferred alternative, but they would not meet the ecological objectives of this document.

The preferred alternative I6(b), which would prohibit commercial vessels from retaining billfish, would not have any economic impacts because current regulations do not allow these vessels to sell the billfish that are landed. This alternative would clarify and consolidate the requirements for commercial vessels to make them consistent with the regulations prohibiting vessel with pelagic longline gear from retaining billfish. The only other alternative considered was No Action, which could have less social impacts than the preferred alternative but it would not satisfy ecological needs of rebuilding billfish stocks.

The preferred alternative I7(b), which would allow Atlantic tuna dealers to submit reports using the Internet, would simplify reporting and potentially reduce costs. The other alternatives

considered were No Action and providing BFT dealers the option to report online (with specific exceptions). They would not result in less economic burden than the preferred alternative.

The preferred alternatives I8(b) and I8(c), which would require the submission of no fishing and cost-earnings reporting forms, would clarify current regulations and potentially enhance compliance. The other alternative considered was No Action; that alternative would not meet the NMFS' objectives to collect quality data to manage the fishery. Neither alternative is expected to have any economic impacts.

The preferred alternative I9(b), which would require vessel owners to report non-tournament recreational landings, would clarify and simplify the reporting process by codifying the current prevalent practice of recreational landings being reported by vessel owners versus individual anglers. The other alternative considered, No Action (I9(a)), might result in less economic burden to small businesses but would not satisfy the goal of improving reporting or other objectives of the FMP.

The preferred alternative I10(c) would conduct additional discussions at ICCAT regarding the long-term implications of allowing unused BFT quota from the previous year being added to the subsequent year's allocation. Depending on the results these discussions the regulations and operation procedures may need to be further amended in the future. In the interim, NMFS would maintain the current regulatory text, but would amend the practice of allowing under/overharvest of this set-aside allocation to be rolled into, or deducted from, the subsequent fishing year's set-aside allocation. Other alternatives considered include No Action and amending the regulatory text to clarify that rollover provisions would apply to this set-aside quota. There could be potential economic impacts associated with all of these alternatives, for instance the potential economic gain attributed to quota being carried forward from the preceding fishing year would remain available under alternative I10(a) and I10(b), however alternative I10(c) would prevent excessive rollovers from occurring, thereby eliminating an incentive for PLL vessel operators to increase effort, or even possibly directing their effort, on BFT in this area. Accumulation of incidental quota, and possibly providing an incentive to target BFT with longline gear would not fully reflect the intent of the recommendation.

Finally, the preferred alternative I11(b), which would require recreational vessels with a Federal permit to abide by Federal regulations regardless of where they are fishing, would standardize compliance with HMS regulations for vessels possessing a federal HMS permit. This would likely simplify compliance with regulations, except in cases where a state has more restrictive regulations. The other alternative considered was No Action, which could have marginally less economic impact than the preferred alternative, but it would not result in simplified compliance with regulations, and therefore would not meet the objectives of the FMP.