

7.0 BYCATCH, INCIDENTAL CATCH, AND PROTECTED SPECIES

In 1998, NMFS developed a national bycatch plan, *Managing the Nation's Bycatch* (NMFS, 1998), which includes programs, activities, and recommendations for federally managed fisheries. The national goal of the Agency's bycatch plan activities is to implement conservation and management measures for living marine resources that will minimize, to the extent practicable, bycatch and the mortality of bycatch that cannot be avoided. Inherent in this goal is the need to avoid bycatch, rather than create new ways to utilize bycatch. The plan also established a definition of bycatch as fishery discards, retained incidental catch, and unobserved mortalities resulting from a direct encounter with fishing gear.

Bycatch in commercial and recreational fisheries is an important issue for the fishing industry, resource managers, scientists, and the public. Bycatch can result in death or injury to the discarded fish, and it is essential that this component of total fishing-related mortality be incorporated into fish stock assessments and evaluation of management measures. Bycatch precludes other more productive uses of fishery resources and decreases the efficiency of fishing operations. Although not all discarded fish die, bycatch can represent a large source of mortality, which can slow the rebuilding of overfished stocks. Bycatch imposes direct and indirect costs on fishing operations by increasing sorting time and decreasing the amount of gear available to catch target species. Incidental catch concerns also apply to populations of marine mammals, sea turtles, seabirds, and other components of ecosystems which may be protected under other applicable laws and for which there are no commercial or recreational uses but for which existence values may be high.

7.1 Bycatch Reduction and the Magnuson-Stevens Act

According to the Magnuson-Stevens Act, "The term "bycatch" means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program." Fish is defined as finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds. Birds and marine mammals are therefore not considered bycatch under the Magnuson-Stevens Act, but are examined as incidental catch.

NS 9 of the Magnuson-Stevens Act requires that fishery conservation and management measures shall, to the extent practicable, minimize bycatch and minimize the mortality of bycatch that cannot be avoided. In many fisheries, it is not practicable to eliminate all bycatch and bycatch mortality. Some relevant examples of fish caught in Atlantic HMS fisheries that are included as bycatch or incidental catch are marlin, undersized swordfish, and BFT caught by commercial fishing gear; undersized swordfish and tunas in recreational hook and line fisheries; species for which there is little or no market such as blue sharks; and species caught and released in excess of a bag limit.

There are benefits associated with the reduction of bycatch, including the reduction of uncertainty concerning total fishing-related mortality, which improves the ability to assess the status of stocks, to determine the appropriate relevant controls, and to ensure that overfishing

levels are not exceeded. It is also important to consider the bycatch of HMS in fisheries that target other species as a source of mortality for HMS and to work with fishery constituents and resource manager partners on an effective bycatch strategy to maintain sustainable fisheries. This strategy may include a combination of management measures in the domestic fishery, and if appropriate, multi-lateral measures recommended by international bodies such as the International Commission for the Conservation of Atlantic Tunas (ICCAT) or coordination with Regional Fishery Management Councils or States. The bycatch in each fishery is summarized annually in the SAFE Report for Atlantic HMS fisheries. The effectiveness of the bycatch reduction measures is evaluated based on this summary.

A number of options are currently employed (*) or available for bycatch reduction in Atlantic HMS fisheries. These include but are not limited to:

Commercial

1. Gear Modifications (including hook and bait types)*
2. Circle Hooks*
3. Time/Area Closures*
4. Performance Standards
5. Education/Outreach*
6. Effort Reductions (*i.e.*, Limited Access)*
7. Full Retention of Catch
8. Use of De-hooking Devices (mortality reduction only)*

Recreational

1. Use of Circle Hooks (mortality reduction only)*
2. Use of De-hooking Devices (mortality reduction only)
3. Full Retention of Catch
4. Formal Voluntary or Mandatory Catch-and-Release Program for all Fish or Certain Species*
5. Time/Area Closures*

There are probably no HMS fisheries in which there is zero bycatch because none of the currently legal fishing gears are perfectly selective for the target species of each fishing operation (with the possible exception of the swordfish/tuna harpoon fishery and speargun fishery). Therefore, to totally eliminate bycatch of all non-target species in Atlantic HMS fisheries would be impractical. The goal then is to minimize the amount of bycatch to the extent practicable and minimize the mortality of species caught as bycatch.

7.1.1 Standardized Reporting of Bycatch

Section 303(a)(11) of the Magnuson-Stevens Act requires that a FMP establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery. In 2004, NMFS published a report entitled “*Evaluating Bycatch: A National Approach to Standardized Bycatch Monitoring Programs*,” which described the current status of, and guidelines for, bycatch monitoring programs (NMFS, 2004a). The data collection and analyses that are used to estimate bycatch in a fishery constitute the “standardized bycatch reporting methodology” (SBRM) for that fishery (NMFS, 2004a). Appendix 5 of the report specifies the protocols for SBRMs established by NMFS throughout the country.

As part of the Agency’s National Bycatch Strategy, NMFS established a National Working Group on Bycatch (NWGB) to develop a national approach to standardized bycatch reporting methodologies and monitoring programs. This work is to be the basis for regional teams, established in the National Bycatch Strategy, to make fishery-specific recommendations. The first National Bycatch Report was published this year (NMFS, 2011).

NMFS utilizes self-reported logbook data (Fisheries Logbook System or FLS, and the supplemental discard report form in the reef fish/snapper-grouper/king and Spanish mackerel/shark logbook program), at-sea observer data, and survey data (recreational fishery dockside intercept and telephone surveys) to produce bycatch estimates in HMS fisheries. These data are collected with respect to fishing gear type (see Section 7.1.1). The number and location of discarded fish are recorded, as is the disposition of the fish (*i.e.*, released alive vs. released dead). Post-release mortality of HMS can be accounted for in stock assessments to the extent that the data allow.

The fishery logbook systems in place are mandatory programs, and it is expected that the reporting rates are generally high (Garrison, 2005). Due to the management focus on HMS fisheries, there has been close monitoring of reporting rates, and observed trips can be directly linked to reported effort. In general, the gear characteristics and amount of observed effort is consistent with reported effort. However, under-reporting is possible, which can lead to a negative bias in bycatch estimates. Cramer (2000) compared dead discards of undersized swordfish, sailfish, white and blue marlin, and pelagic sharks from HMS logbook and Pelagic Observer Program (POP) data in the U.S. Atlantic PLL fishery. Cramer (2000) provided the ratio of catch estimated from the POP data divided by the reported catch in the HMS logbooks. The ratio indicated the amount of underreporting for each species in a given area. However, the data analyzed by Cramer (2000), was based on J-hook data from 1997 – 1999 and that gear is prohibited now. In some instances, logbooks are used to provide effort information against which bycatch rates obtained from observers is multiplied to estimate bycatch. In other sectors/fisheries, self-reporting provides the primary method of reporting bycatch because of limited funding, priorities, etc.

The following section provides a review of the bycatch reporting methodologies for all HMS fisheries currently in place. Future adjustments may be implemented based on evaluation of the results of studies developed as part of the HMS Bycatch Reduction Implementation Plan,

or as needed due to changing conditions in the fisheries. Further analyses of bycatch in the various HMS fisheries may be conducted as time, resources and priorities allow.

U.S. Atlantic Pelagic Longline (PLL) Fishery

NMFS utilizes both self-reported data (mandatory logbooks for all vessels) and observer data to monitor bycatch in the PLL fishery. The observer program has been in place since 1992 to document finfish bycatch, characterize fishery behavior, and quantify interactions with protected species (Beerkircher *et al.*, 2002). The observer program is mandatory for those vessels selected and all vessels with directed and incidental swordfish permits are selected. The program had a target coverage level of five percent of the U.S. fleet within the North Atlantic (waters north of 5° N. latitude), as was agreed to by the United States at ICCAT. Actual coverage levels achieved from 1992 – 2003 ranged from two to nine percent depending on quarter and year (Table 7.1) Observer coverage was 100 percent for vessels participating in the NED experimental fishery during 2001 – 2003. Overall observer coverage in 2003 was 11.5 percent of the total sets made, including the NED experiment. The program began requiring an eight percent coverage rate due to the requirements of the 2004 BiOp for Atlantic PLL Fishery for HMS. Observer coverage during 2005-2010 ranged from 7.5 – 15.0 percent. NMFS increased the coverage of the longline fleet operating in the Gulf of Mexico during March/April through June for 2007-2010 to monitor BFT interactions, attempting 100% observer coverage from 2007-2009 and 50% in 2010. Since 1992, data collection priorities have been to collect catch and effort data of the U.S. Atlantic PLL fleet on HMS, although information is also collected on bycatch of protected species. Due to increased observer coverage in the Mid-Atlantic Bight as mandated by the PLTRT final rule, percent observer coverage in this fishery is expected to increase.

Fishery observer effort is allocated among eleven large geographic areas and calendar quarter based upon the historical fishing range of the fleet (Walsh and Garrison, 2006). The target annual coverage is eight percent of the total reported sets, and observer coverage is randomly allocated based upon reported fishing effort during the previous fishing year/quarter/statistical reporting area (Beerkircher *et al.*, 2002). Bycatch rates of protected species (catch per 1,000 hooks) are quantified based upon observer data by year, fishing area, and quarter (Garrison, 2005). The estimated bycatch rate is then multiplied by the fishing effort (number of hooks) in each area and quarter reported to the Fishery Logbook System (FLS) program to obtain estimates of total interactions for each species of marine mammal and sea turtle (Garrison, 2005).

Purse Seine Fishery

Vessels operating in the BFT purse seine fishery submit either Vessel Trip Reports (VTRs) (NMFS Northeast) or HMS logbooks (NMFS Southeast) based on the type of Federal permits they hold in addition to their HMS permit. Observers were placed on purse seine vessels operating in this fishery in 1996 and 2001 in order to monitor groundfish bycatch in closed areas in the Northwest Atlantic (B. McHale, pers. comm., 2005). The purse seine fishery was observed to have very little bycatch of groundfish or other species of fish and no protected species interactions. As a result, observer coverage has not been used recently to document

bycatch or validate logbook reports. In addition, the lack of effort in recent years has not warranted consideration for additional observer coverage.

Shark Bottom Longline Fishery

Vessels participating in the BLL fishery for sharks are required to submit snapper/grouper/reef fish/shark logbooks to report their catch and effort, including bycatch species. All vessels having Shark LAPs are required to report. Observers have monitored the shark BLL fishery since 1994. The program has been mandatory for vessels selected to carry observers beginning in 2002. Prior to that, it was a voluntary program relying on cooperating vessels/captains to take observers. From 2002 – 2005, the objective of the vessel selection was to achieve a representative five percent level of coverage of the total fishing effort in each fishing area (North Atlantic, South Atlantic, and Gulf of Mexico) and during each fishing season of that year (Smith *et al.*, 2006). Since 2006, target coverage level has been 3.9 percent of the total fishing effort. This level is estimated to attain a sample size needed to provide estimates of sea turtle, smalltooth sawfish, or marine mammal interactions with an expected coefficient of variance (CV) of 0.3 (Carlson, unpubl., as cited in Smith *et al.*, 2006).

Since August 2001, selected federal permit holders that report on the Gulf of Mexico reef fish, South Atlantic snapper-grouper, king and Spanish mackerel, and shark fisheries logbook have been required to report all species and quantities of discarded (alive and dead) sea turtles, marine mammals, birds, and finfish on a supplemental discard form. A randomly selected sample of 20 percent of the vessels with active permits in the above fisheries is selected each year. The selection process is stratified across geographic area (Gulf of Mexico and South Atlantic), gear (handline, longline, troll, gillnet, and trap), and number of fishing trips (ten or less trips and more than 11 trips). Shark fishermen can also use the PLLHMS longline logbook or the northeast VTRs depending on the permits held by the vessel. If they use either the HMS logbook or VTR, they need to report all of the catch and effort, as well as all the bycatch or incidental catch.

The Final Rule for Amendment 2 to the Consolidated HMS FMP established, among other things, a shark research fishery to maintain time series data for stock assessments and to meet NMFS' 2009 research objectives. The shark research fishery permits authorize participation in the shark research fishery and the collection of sandbar and non-sandbar LCS from federal waters in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea for the purposes of scientific data collection subject to 100 percent observer coverage. The commercial vessels selected to participate in the shark research fishery are the only vessels authorized to land/harvest sandbars subject to the sandbar quota available for each year. The base quota is 87.9 mt dw/year through December 31, 2012, although this number may be reduced in the event of overharvests, if any, and 116.6 mt dw/year starting on January 1, 2013. The selected vessels would also have access to the non-sandbar LCS, small coastal shark (SCS), and pelagic shark quotas. Commercial vessels not participating in the shark research fishery may only land non-sandbar LCS, SCS, and pelagic sharks subject to the retention limits and quotas per 50 CFR 635.24 and 635.27, respectively.

Shark Gillnet Fishery

Vessels participating in the gillnet fishery for sharks are required to submit logbooks to report their catch and effort, including bycatch species. An observer program for the directed shark gillnet fishery has been in place from 1993–1995 and from 1998 to the present. The objectives of this program are to obtain estimates of catch and bycatch and bycatch mortality rates of protected species, juvenile sharks, and other fish species. Protected resources interactions are estimated to meet the mandates of the ALWTRP and the May 2008 BiOp. There are special regulations in place for gillnetters during certain times of the year, however, the process by which vessels are selected and coverage levels are consistent. Vessels are randomly selected on a quarterly basis and then observed for a minimum of 3 trips during that time, with a goal of estimating protected resources interactions corresponding to the sample size necessary to provide estimates of sea turtle or marine mammal interactions with an expected coefficient of variation of 0.3.

Commercial Handgear Fishery

The commercial handgear fishery includes vessels using handline, harpoon, rod and reel, or bandit gear to fish for HMS. NMFS has the authority to use observers to collect bycatch information from commercial vessels fishing for tunas. Many of these vessels are already required to complete Federal and/or state logbooks (*e.g.*, the NMFS Northeast Region VTR), in which they are required to report all fishing information, including that for HMS and bycatch. NMFS is currently evaluating various alternatives to increase fishery data collection of vessels fishing for HMS with handgear, such as selecting additional HMS permitted vessels to report in logbooks or to be selected for observer coverage, and is investigating alternatives for electronic reporting. Therefore, no estimates of bycatch are available at this time. Bycatch and bycatch mortality are considered to be low due to the nature of the gear but this should be validated in the future.

Recreational Handgear Fishery

NMFS collects recreational catch-and-release data from dockside surveys, the LPS and MRFSS for the rod and reel fishery and uses these data to estimate total landings and discards of bycatch or incidental catch. Statistical problems associated with small sample size remain an obstacle to estimating bycatch reliably in the rod and reel fishery. Coefficients of variation can be high for many HMS which are rare event species in the MRFSS; and the LPS does not cover all times/geographic areas for non-bluefin tuna species. New survey methodologies are being developed, however, especially for the Charter/Headboat sector of the rod and reel fishery, which should help to address some of the problems in estimating bycatch for this fishery. In addition, selecting recreational vessels for voluntary logbook reporting may be an option for collecting bycatch information for this sector of the HMS fishery.

NMFS has the authority to use observers to collect bycatch information from vessels with HMS Charter/Headboat or Angling permits. Many of the charter/headboat vessels are required to complete Federal and/or state logbooks (*e.g.*, the NMFS Northeast Region VTR), in which they are required to report all fishing information, including that for HMS and bycatch. NMFS is

currently evaluating various alternatives to increase logbook coverage of vessels fishing for HMS, such as selecting additional HMS vessels to report in logbooks or be selected for observer coverage, and is investigating alternatives for electronic reporting.

The National Academy of Sciences assembled a committee to review current marine recreational fishing surveys at the request of NMFS (NAS, 2006). The committee was tasked with developing recommendations for improvements to current surveys and to recommend the implementation of possible alternative approaches. The committee's final report was published in April 2006, and NMFS is in the process of evaluating the recommendations. At the present time, no other alternative approach is available. Further information can be found in Section 4.4. The Marine Recreational Information Program is in the process of incorporating these recommendations into future enhancements.

7.2 Bycatch Reduction in HMS Fisheries

The NMFS HMS bycatch reduction program includes an evaluation of current data collection programs, implementation of bycatch reduction measures such as gear modifications and time/area closures (Table 7.1), and continued support of data collection and research relating to bycatch. Additional details on bycatch and bycatch reduction measures can be found in Section 3.5 of the 1999 FMP (NMFS, 1999), Regulatory Amendment 1 to the 1999 FMP (NMFS, 2000), Regulatory Adjustment 2 to the 1999 FMP (NMFS, 2002), Amendment 1 to the 1999 FMP (NMFS, 2003a), and in the Consolidated HMS FMP (NMFS, 2006). In addition, an HMS Bycatch Reduction Implementation Plan was developed in late 2003, which identified priority issues to be addressed in the following areas: 1) monitoring; 2) research; 3) management; and 4) education/outreach. Individual activities in each of these areas were identified and new activities may be added or removed as they are addressed or identified.

7.2.1 Evaluation and Monitoring of Bycatch

The identification of bycatch in Atlantic HMS fisheries is the first step in reducing bycatch and bycatch mortality. The Magnuson-Stevens Act requires the amount and type of bycatch to be summarized in the annual SAFE reports. Bycatch reporting methods are addressed in Section 7.1.1. A summary of bycatch species, data collection methods, and management measures by fishery/gear type is found in Table 7.1.

PLL dead discards of swordfish, bluefin tuna, billfish, large coastal sharks, and pelagic sharks are estimated using data from NMFS observer reports and pelagic logbook reports. Shark BLL and shark gillnet discards can be estimated using logbook data and observer reports as well. Shark gillnet discards have also been estimated using logbook data when observer coverage is equal to 100 percent.

NMFS has not estimated bycatch in the swordfish harpoon fishery. NMFS has limited historical observer data on harpooned swordfish from driftnet trips in which harpoons were sometimes used. Swordfish harpoon fishermen are required to submit pelagic logbooks and NMFS can examine those for their utility in estimating bycatch. NMFS has not estimated bycatch in the BFT harpoon fishery because these fishermen have not been selected to submit

logbooks. NMFS has not estimated bycatch in the General category commercial rod and reel tuna fishery although anecdotal evidence indicates that some undersized BFT may be captured.

There is concern about the accuracy of discard estimates in the recreational rod and reel fishery for Atlantic HMS due to the low number of observations by the LPS and the MRFSS. Recreational bycatch estimates (numbers of fish released alive and dead) are not currently available, except for BFT. For some species, encounters are considered rare events, which might result in bycatch estimates with considerable uncertainty. Due to improvements in survey methodology, increased numbers of intercepts (interviews with fishermen) have been collected since 2002. NMFS intends to develop bycatch estimates (live and dead discards) and estimates of uncertainty from the recreational fishery from the LPS. These data will be included in future SAFE Reports. Bycatch estimates may also be examined by using tournament data for the recreational fishery.

Table 7.1 Summary of bycatch species in HMS fisheries, Marine Mammal Protection Act (MMPA) category, endangered Species Act (ESA) requirements, data collection, and management measures by fishery/gear type. (Excerpted from HMS Bycatch Priorities and Implementation Plan and updated through September 2011)

Fishery/Gear Type	Bycatch Species	MMPA Category	ESA Requirements	Bycatch Data Collection	Management Measures
Pelagic Longline	Bluefin tuna Billfish Undersize target species Marine mammals Sea turtles Seabirds Non-target finfish Prohibited shark species Large Coastal Shark species after closure	Category I	Jeopardy findings in 2000 & 2004; Reasonable and Prudent Alternative implemented 2001-04; ITS, Terms & Conditions, RPMs	Permit requirement (1985); logbook requirement (SWO-1985; SHK - 1993); observer requirement (1992), EFPs (2001-present)	BFT target catch requirements (1981); quotas (SWO - 1985; SHK - 1993); prohibit possession of billfish (1988); minimum size (1995); gear marking (1999); line clippers, dipnets (2000); MAB closure (1999); limited access (1999); limit the length of mainline (1996-1997 only); move 1 nm after an interaction (1999); voluntary vessel operator workshops (1999); GOM closure (2000); FL, Charleston Bump, NED closures (2001); gangion length, corrodible hooks, de-hooking devices, handling & release guidelines (2001); NED experiment (2001-03); VMS (2003); circle hooks and bait requirements (2004); mandatory safe handling and release workshops (2006); sea turtle control device (2008); closed area research (2008-10); marine mammal handling and release placard, 20 nm mainline restriction in MAB, observer and research reqts in Cape Hatteras Spec. Research Area (CHSRA), increased obs coverage in Atl PLL fishery (2009))
Shark Bottom Longline	Prohibited shark species Target species after closure Sea turtles Smalltooth sawfish Non-target finfish	Category III	ITS, Terms & Conditions, RPMs	Permit requirement (1993); logbook requirement (1993); observer coverage (1994)	Quotas (1993); trip limit (1994); gear marking (1999); handling & release guidelines (2001); line clippers, dipnets, corrodible hooks, de-hooking devices, move 1 nm after an interaction (2004); South Atlantic closure, VMS (2005); shark identification workshops for dealers (2007); sea turtle control device (2008); shark research fishery (2008)
Shark Gillnet	Prohibited shark species Sea turtles Marine mammals Non-target finfish	Category II	ITS, Terms & Conditions, RPMs	Permit requirement (1993); logbook requirement (1993); observer coverage	Quotas (1993); trip limit (1994); gear marking (1999); deployment restrictions (1999); 30-day closure for leatherbacks (2001); handling & release guidelines (2001); net checks (2002); whale sighting (2002); VMS (2004); closure for right whale mortality (2006);

Fishery/Gear Type	Bycatch Species	MMPA Category	ESA Requirements	Bycatch Data Collection	Management Measures
	Smalltooth sawfish			(1994)	shark identification workshops for dealers (2007)
BFT Purse Seine	Undersize target species Non-target finfish	Category III	ITS, Terms & Conditions	Permit requirement (1982); observer requirement (1996, 2001 only); EFPs (2002-03)	Quotas (1975); limited access, individual vessel quotas (1982); minimum size (1982)
BFT & SWO Harpoon	Undersize target species	Category III	ITS, Terms & Conditions	Permit requirement (BFT - 1982; SWO - 1987); SWO logbook requirement (1987)	Quotas (BFT - 1982; SWO - 1985); minimum size (BFT - 1982; SWO - 1985)
Handgear - Commercial	Undersize target species Non-target finfish	Category III	ITS, Terms & Conditions	Permit requirement (BFT - 1982; SWO 1987; SHK - 1993); logbook requirement (SWO - 1985; SHK - 1993)	Regulations vary by species, including quotas, minimum sizes, retention limits, landing form
Handgear - Recreational	Undersize target species Non-target finfish	Category III	ITS, Terms & Conditions	Large Pelagic Survey (1992); MRFSS (1981)	Regulations vary by species, including minimum sizes, retention limits, landing form; BFT quotas

7.2.2 Bycatch Mortality

The reduction of bycatch mortality is an important component of NS 9. Physical injuries may not be apparent to the fisherman who is quickly releasing a fish because there may be injuries associated with the stress of being hooked or caught in a net. Little is known about the mortality rates of many of the species managed under this FMP, but there are some data for certain species. Information on bycatch mortality of these fish should continue to be collected, and in the future, could be used to estimate bycatch mortality in stock assessments.

NMFS submits annual data (Task II) to ICCAT on mortality estimates (dead discards). These data are included in the SAFE reports and U.S. National Reports to ICCAT to evaluate bycatch trends in HMS fisheries.

Pelagic Longline Fishery

NMFS collects data on the disposition (released alive or dead) of bycatch species from logbooks submitted by fishermen in the PLL fishery. Observer reports also include disposition of the catch as well as information on hook location, trailing gear, and injury status of protected species interactions. These data are used to estimate post-release mortality of sea turtles and marine mammals based on guidelines for each (Angliss and DeMaster 1998, Ryder *et al.* 2006). See Section 7.4 for estimates of sea turtle and marine mammal bycatch estimates.

Purse Seine Fishery

NMFS has limited observer data on the BFT purse seine fishery. There are no recorded instances of non-tuna finfish, other than minimal numbers of blue sharks, caught in tuna purse seines. Anecdotal evidence indicates that if fish are discarded, they are easily released out of the net with minimal bycatch mortality.

Bottom Longline Fishery

The shark BLL fishery has relatively low observed bycatch rates. Historically, finfish bycatch has averaged approximately five percent in the BLL fishery. Observed protected species bycatch (sea turtles) has typically been much lower, less than 0.01 percent of the total observed catch. Disposition of discards is recorded by observers and can be used to estimate discard mortality.

Shark Gillnet Fishery

Many shark gillnet fishermen have begun targeting finfish rather than sharks. A total of 295 gillnet sets were observed in 2010. The majority of species caught were finfish (93.7%) versus sharks (6.3%). Only one individual protected species was observed; a common loon was caught and discarded dead. Disposition of discards is recorded by observers and can be used to estimate discard mortality.

Commercial Handgear Fishery

Vessels targeting BFT with harpoon gear have not been selected for observer coverage since the deliberate fishing nature of the gear is such that bycatch is expected to be low. Therefore, there are no recorded instances of non-target finfish caught with harpoons and NMFS cannot quantify the bycatch of undersized BFT in this fishery. Bycatch in the swordfish harpoon fishery is expected to be virtually, if not totally, non-existent. Since bycatch approaches zero in this fishery, it follows that bycatch mortality is near zero. Disposition of bycatch reported in logbooks is used to estimate mortality of bycatch in the hook and line handgear fisheries.

Recreational Handgear Fishery

The LPS collects data on disposition of bycatch (released alive or dead) in recreational HMS fisheries. Rod and reel discard estimates from Virginia to Maine during June through October can be monitored through the expansion of survey data derived from the LPS (dockside and telephone surveys). However, the actual numbers of fish discarded for many species are low. Post-release mortality studies have been conducted on few HMS at this time. Summaries of those studies can be found in previous SAFE reports.

7.3 Protected Species Interactions in HMS Fisheries

This section examines the interaction between protected species and Atlantic HMS fisheries managed under the Consolidated HMS FMP. As a point of clarification, interactions are different than bycatch. Interactions take place between fishing gears and marine mammals, and seabirds; while bycatch consists of the incidental take and discards of non-targeted finfish, shellfish, mollusks, crustaceans, sea turtles, and any other marine life other than marine mammals and seabirds. Following a brief review of the three acts (MMPA, ESA, and Migratory Bird Treaty Act (MBTA)) affecting protected species, the interactions between HMS gears and each species is examined. Additionally, the interaction of seabirds and longline fisheries are considered under the auspices of the United States “National Plan of Action for Reducing the Incidental Catch of Seabirds in Longline Fisheries” (NPOA – Seabirds).

7.3.1 Interactions and the Marine Mammal Protection Act (MMPA)

The MMPA of 1972 as amended is one of the principal Federal statutes guiding marine mammal species protection and conservation policy. In the 1994 amendments, section 118 established the goal that the incidental mortality or serious injury of marine mammals occurring during the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality rate goal (ZMRG) and serious injury rate within seven years of enactment (*i.e.*, April 30, 2001). In addition, the amendments established a three-part strategy to govern interactions between marine mammals and commercial fishing operations. These include the preparation of marine mammal stock assessment reports, a registration and marine mammal mortality monitoring program for certain commercial fisheries (Category I and II), and the preparation and implementation of take reduction plans (TRP).

NMFS relies on both fishery-dependent and fishery-independent data to produce stock assessments for marine mammals in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea.

Draft stock assessment reports are typically published around January and final reports are typically published in the fall. Final stock assessment reports can be obtained on the web at: <http://www.nmfs.noaa.gov/pr/sars/species.htm> while draft 2011 stock assessment reports are available at: <http://www.nmfs.noaa.gov/pr/sars/draft.htm>.

The following marine mammal species occur off the Atlantic and Gulf Coasts that are, or could be of concern with respect to potential interactions with HMS fisheries.

<u>Common Name</u>	<u>Scientific Name</u>
Atlantic spotted dolphin	<i>Stenella frontalis</i>
Blue whale	<i>Balaenoptera musculus</i>
Bottlenose dolphin	<i>Tursiops truncatus</i>
Common dolphin	<i>Delphinis delphis</i>
Fin whale	<i>Balaenoptera physalus</i>
Harbor porpoise	<i>Phocoena phocoena</i>
Humpback whale	<i>Megaptera novaeangliae</i>
Killer whale	<i>Orcinus orca</i>
Long-finned pilot whale	<i>Globicephela melas</i>
Minke whale	<i>Balaenoptera acutorostrata</i>
Northern bottlenose whale	<i>Hyperoodon ampullatus</i>
Northern right whale	<i>Eubalaena glacialis</i>
Pantropical spotted dolphin	<i>Stenella attenuata</i>
Pygmy sperm whale	<i>Kogia breviceps</i>
Risso's dolphin	<i>Grampus griseus</i>
Sei whale	<i>Balaenoptera borealis</i>
Short-beaked spinner dolphin	<i>Stenella clymene</i>
Short-finned pilot whale	<i>Globicephela macrorhynchus</i>
Sperm whale	<i>Physeter macrocephalus</i>
Spinner dolphin	<i>Stenella longirostris</i>
Striped dolphin	<i>Stenella coeruleoalba</i>
White-sided dolphin	<i>Lagenorhynchus acutus</i>

Under MMPA requirements, NMFS produces an annual List of Fisheries (LOF) that classifies domestic commercial fisheries, by gear type, relative to their rates of incidental mortality or serious injury of marine mammals. The LOF includes three classifications:

1. Category I fisheries are those with frequent serious injury or mortality to marine mammals;
2. Category II fisheries are those with occasional serious injury or mortality; and
3. Category III fisheries are those with remote likelihood of serious injury or mortality to marine mammals.

The draft 2012 MMPA LOF was published on November 29, 2011 (76 FR 73319). The Atlantic Ocean, Caribbean, and Gulf of Mexico large PLL fishery is classified as Category I (frequent serious injuries and mortalities incidental to commercial fishing) and the southeastern

Atlantic shark gillnet fishery is classified as Category II (occasional serious injuries and mortalities). The following Atlantic HMS fisheries are classified as Category III (remote likelihood or no known serious injuries or mortalities): Atlantic tuna purse seine; Gulf of Maine and Mid-Atlantic tuna, shark and swordfish, hook-and-line/harpoon; southeastern Mid-Atlantic and Gulf of Mexico shark BLL; and Mid-Atlantic, southeastern Atlantic, and Gulf of Mexico pelagic hook-and-line/harpoon fisheries. Commercial passenger fishing vessel (charter/headboat) fisheries are subject to Section 118 and are listed as a Category III fishery. Recreational vessels are not categorized since they are not considered commercial fishing vessels. Beginning with the 2009 LOF, high seas fisheries are included in the LOF. Many fisheries operate in both U.S. waters and on the high seas thereby making the high seas component an extension of a fishery already on the LOF. NMFS categorizes the majority of high seas fisheries on the LOF as Category II based on the lack of marine mammal stock abundance information from the high seas. Exceptions to this are high seas fisheries that also operate in U.S. waters that have already been categorized as I, II, or III. For additional information on the fisheries categories and how fisheries are classified, see <http://www.nmfs.noaa.gov/pr/interactions/lof/>.

Fishermen participating in Category I or II fisheries are required to register under the MMPA and to accommodate an observer aboard their vessels if requested. Vessel owners or operators, or fishermen, in Category I, II, or III fisheries must report all incidental mortalities and serious injuries of marine mammals during the course of commercial fishing operations to NMFS. There are currently no regulations requiring recreational fishermen to report takes, nor are they authorized to have incidental takes (*i.e.*, they are illegal).

The PLTRT was formed to address the incidental mortality and serious injury of long-finned pilot whales (*Globicephala melas*) and short-finned pilot whales (*Globicephala macrorhynchus*) in the mid-Atlantic region of the Atlantic PLL fishery. Under section 118 of the MMPA, the PLTRT is charged with developing a TRP to reduce bycatch of pilot whales in the Atlantic PLL fishery to a level approaching a zero mortality rate within 5 years of implementation of the plan. The PLTRT developed a draft TRP and was published along with a proposed rule to implement it on June 24, 2008 (73 FR35623). The final TRP was published on May 19, 2009 (74 FR 23349) effective June 18, 2009. The TRP implemented a suite of management strategies to reduce mortality and serious injury of pilot whales and Risso's dolphins in the Atlantic PLL fishery. NMFS finalized the following three regulatory measures: (1) establish a Cape Hatteras Special Research Area (CHSRA), with specific observer and research participation requirements for fishermen operating in that area; (2) set a 20-nm (37.02-km) upper limit on mainline length for all PLL sets within the MAB; and (3) require an informational placard on handling and release of marine mammals be displayed both in the wheelhouse and on the working deck of all active PLL vessels in the Atlantic fishery. NMFS also finalized the following non-regulatory measures: (1) increased observer coverage in the MAB to 12-15 percent to ensure representative sampling of pilot whales and Risso's dolphins; (2) encourage vessel operators to maintain daily communication with other local vessel operators regarding protected species interactions throughout the PLL fishery with the goal of identifying and exchanging information relevant to avoiding protected species bycatch; (3) recommending that NMFS update the guidelines for handling and releasing marine mammals and NMFS and the industry to develop new technologies, equipment, and methods for safer and more effective

handling and release of marine mammals; and (4) recommending NMFS pursue research and data collection goals in the PLTRT regarding pilot whales and Risso’s dolphins. More information on the PLTRT can be found at <http://www.nmfs.noaa.gov/pr/interactions/trt/pl-trt.htm>. A summary of the observed and estimated marine mammal interactions with the PLL fishery is presented in Table 4.6.

7.3.2 Interactions and the Endangered Species Act (ESA)

The ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides for the conservation and recovery of endangered and threatened species of fish, wildlife, and plants. The listing of a species is based on the status of the species throughout its range or in a specific portion of its range in some instances. Threatened species are those likely to become endangered in the foreseeable future [16 U.S.C. §1532(20)] if no action is taken to stop the decline of the species. Endangered species are those in danger of becoming extinct throughout all or a significant portion of their range [16 U.S.C. §1532(20)]. Species can be listed as endangered without first being listed as threatened. The Secretary of Commerce, acting through NMFS, is authorized to list marine and anadromous fish species, marine mammals (except for walrus and sea otter), marine reptiles (such as sea turtles), and marine plants. The Secretary of the Interior, acting through the USFWS, is authorized to list walrus and sea otter, seabirds, terrestrial plants and wildlife, and freshwater fish and plant species.

In addition to listing species under the ESA, the service agency (NMFS or USFWS) generally must designate critical habitat for listed species concurrently with the listing decision to the “maximum extent prudent and determinable” [16 U.S.C. §1533(a)(3)]. The ESA defines critical habitat as those specific areas that are occupied by the species at the time it is listed that are essential to the conservation of a listed species and that may be in need of special consideration, as well as those specific areas that are not occupied by the species that are essential to their conservation. Federal agencies are prohibited from undertaking actions that are likely to destroy or adversely modify designated critical habitat.

Marine Mammals

	<u>Status</u>
Blue whale (<i>Balaenoptera musculus</i>)	Endangered
Fin whale (<i>Balaenoptera physalus</i>)	Endangered
Humpback whale (<i>Megaptera novaeangliae</i>)	Endangered
Northern right whale (<i>Eubalaena glacialis</i>)	Endangered
Sei whale (<i>Balaenoptera borealis</i>)	Endangered
Sperm whale (<i>Physeter macrocephalus</i>)	Endangered

Sea Turtles

Green turtle (<i>Chelonia mydas</i>)	*Endangered/Threatened
Hawksbill sea turtle (<i>Eretmochelys imbricata</i>)	Endangered
Kemp’s ridley sea turtle (<i>Lepidochelys kempii</i>)	Endangered
Leatherback sea turtle (<i>Dermochelys coriacea</i>)	Endangered
Loggerhead sea turtle (<i>Caretta caretta</i>)	Threatened
Olive ridley sea turtle (<i>Lepidochelys olivacea</i>)	Threatened

Critical Habitat

Northern right whale

Endangered

Finfish

Smalltooth sawfish (*Pristis pectinata*)

Endangered

*Green sea turtles in U.S. waters are listed as threatened except for the Florida breeding population, which is listed as endangered. Due to the inability to distinguish between the populations away from the nesting beaches, green sea turtles are considered endangered wherever they occur in U.S. waters.

7.3.2.1 Sea Turtles

NMFS has taken numerous steps in the past few years to reduce sea turtle bycatch and bycatch mortality in domestic longline fisheries. A summary of those steps can be found in Chapter 4 and previous SAFE reports. As noted in Chapter 4, sea turtle interactions have decreased since these steps have been taken.

7.3.2.2 Smalltooth Sawfish

On April 1, 2003, NMFS listed smalltooth sawfish as an endangered species (68 FR 15674) under the ESA. After reviewing the best available scientific and commercial information, the status review team determined that the U.S. Distinct Population Segment (DPS) of smalltooth sawfish is in danger of extinction throughout all or a significant portion of its range from a combination of the following four listing factors: 1) the present or threatened destruction, modification, or curtailment of habitat or range; 2) overutilization for commercial, recreational, scientific, or educational purposes; 3) inadequacy of existing regulatory mechanisms; and 4) other natural or manmade factors affecting its continued existence. NMFS is working on designating critical habitat for smalltooth sawfish.

NMFS believes that smalltooth sawfish takes in the shark gillnet fishery are rare given the low reported number of takes and high rate of observer coverage. The fact that there were no smalltooth sawfish caught during 2001, when 100 percent of the fishing effort was observed, indicates that smalltooth sawfish takes (observed or total) most likely do not occur on an annual basis. Based on this information, the 2003 BiOp estimated that one incidental capture of a sawfish (released alive) over five years, would occur as a result of the use of gillnets in this fishery (NMFS, 2003a). No smalltooth sawfish were observed in shark gillnet fisheries for 2010.

Smalltooth sawfish have been observed caught (eight known interactions, seven released alive, one released in unknown condition) in shark BLL fisheries from 1994 through 2004 (NMFS, 2003a). Based on these observations, expanded sawfish take estimates for 1994-2002 were developed for the shark BLL fishery (NMFS, 2003a). A total of 466 sawfish were estimated to have been taken in this fishery during 1994 - 2002, resulting in an average of 52 per year. All were released alive except one. Estimates of sawfish bycatch for 2003-06 have been developed and range from 0 to 161 interactions per year (Richards, 2007a; 2007b). However, due to the sparseness of observations (interactions) and effort variables chosen for the various approaches to estimating total interactions, the results were not very precise. A total of ten

smalltooth sawfish were observed caught in 2010 by vessels fishing BLL gear for sharks in the Gulf of Mexico and South Atlantic (Hale et al, 2011).

A small BLL time-area closure to protect smalltooth sawfish southwest of Key West, Florida, was considered during the development of the Consolidated HMS FMP (NMFS, 2006). The closure was not implemented due to the lack of information regarding critical habitat for this species and a proposed rule to designate critical habitat for smalltooth sawfish published on November 20, 2008 (73 FR 70290).

7.3.2.3 Interactions with Seabirds

The NPOA-Seabirds was released in February 2001. The NPOA for Seabirds calls for detailed assessments of longline fisheries, and, if a problem is found to exist within a longline fishery, for measures to reduce seabird bycatch within two years. NMFS, in collaboration with the appropriate Councils and in consultation with the USFWS, will prepare an annual report on the status of seabird mortality for each longline fishery. The United States is committed to pursuing international cooperation, through the Department of State, NMFS, and USFWS, to advocate the development of NPOAs within relevant international fora. NMFS intends to meet with longline fishery participants and other members of the public in the future to discuss possibilities for complying with the intent of the plan of action. Because interactions appear to be relatively low in Atlantic HMS fisheries, the adoption of immediate measures is unlikely.

Gannets, gulls, greater shearwaters, and storm petrels are occasionally hooked by Atlantic PLLs. These species and all other seabirds are protected under the MBTA. Seabird populations are often slow to recover from excess mortality as a consequence of their low reproductive potential (one egg per year and late sexual maturation). The majority of longline interactions with seabirds occur as the gear is being set. The birds eat the bait and become hooked on the line. The line then sinks and the birds are subsequently drowned.

Bycatch of seabirds in the shark BLL fishery has been virtually non-existent. A single pelican has been observed killed from 1994 through 2010. No expanded estimates of seabird bycatch or catch rates for the BLL fishery have been made due to the rarity of seabird takes.

7.4 Measures to Address Protected Species Concerns

NMFS has taken a number of actions designed to reduce interactions with protected species over the last few years. Bycatch reduction measures have been implemented through the 1999 FMP (NMFS, 1999), in Regulatory Amendment 1 to the 1999 FMP (NMFS, 2000), in Regulatory Adjustment 2 to the 1999 FMP (NMFS, 2002), in Amendment 1 to the 1999 FMP (NMFS, 2003a), and in the June 2004 Final Rule for Reduction of Sea Turtle Bycatch and Bycatch Mortality in the Atlantic PLL Fishery (69 FR 40734). NMFS closed the Southeast U.S. Restricted Area to gillnet fisheries from February 15, 2006, to March 31, 2006, as a result of an entanglement and subsequent mortality of a right whale with gillnet gear (71 FR 8223). NMFS continues to monitor observed interactions with marine mammals and sea turtles on a quarterly basis and reviews data for appropriate action, if any, as necessary. A final rule requiring the possession and use of an additional sea turtle control device as an addition to the existing requirements for sea turtle bycatch mitigation gear in pelagic and BLL fisheries was effective

October 23, 2008 (73 FR 54721). NMFS finalized the PLTRT TRP effective June 18, 2009 (74 FR 23349) which implemented a suite of management strategies to reduce mortality and serious injury of pilot whales and Risso’s dolphins in the Atlantic PLL fishery.

7.5 Bycatch of HMS in Other Fisheries

NMFS is concerned about bycatch mortality of Atlantic HMS in any federal or state-managed fishery which captures them. NMFS plans to address bycatch of these species in the appropriate FMPs through coordination with the responsible management body. For example, capture of swordfish and tunas incidental to squid trawl operations is addressed in the Squid, Mackerel, and Butterfish FMP. Capture rates of tunas in coastal gillnet fisheries may be explored through issuance of exempted fishing permits and reporting requirements. NMFS continues to solicit bycatch data on HMS from all state, interjurisdictional, and Federal data collection programs.

7.5.1 Squid Mid-Water Trawl

U.S. squid trawl fishermen, using mid-water gear, landed 24.9 mt ww of yellowfin tuna, skipjack tuna, albacore tuna, bigeye tuna, and swordfish in 2010 incidental to the squid, mackerel, and butterfish trawl fishery (Table 7.2). Bycatch of HMS in other trawl fisheries may be included as a portion of the overall reported trawl landings in Table 7.2. Landings increased from 2009 for yellowfin and bigeye tuna. Swordfish landings remain low relative to the directed fishery landings but have increased in 2009-2010. A retention limit of 30 swordfish per trip allows squid trawl fishermen to land some of the swordfish that are encountered, although regulatory discards may still occur.

Table 7.2 Atlantic HMS Landed (mt ww) Incidental to Trawl Fisheries, 2001-2010.
Source: NMFS, 2003; NMFS, 2005; NMFS, 2009; NMFS, 2010; NMFS, 2011.

Species	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Yellowfin tuna	2.7	0.3	2.2	1.6	0.2	0.7	2.4	0.0	0.0	1.6
Skipjack tuna	0.2	<0.05	0.5	0.2	0.07	0.7	<0.01	<0.01	0.0	0.0
Bigeye tuna	0.4	0.5	0.03	0.9	0.6	0.0	0.4	0.0	0.0	1.2
Albacore	0.0	0.3	0.02	2.7	1.7	1.1	0.3	0.01	0.08	0.03
Swordfish	2.5	3.9	5.6	8.3	8.2	3.5	6.5	7.6	22.9	21.1
Total	5.8	5.0	8.35	13.7	10.77	6.0	9.61	7.61	23.0	24.9

7.5.2 Menhaden Purse Seine Fishery

In the menhaden purse seine fishery, sharks were caught incidentally in approximately 30 percent of the purse seine sets observed (deSilva *et al.*, 2001). Ten species of sharks were identified with blacktip sharks being the most common species. Approximately 20 percent of the sharks were not identified to species. An estimated 30,000 sharks were taken in this fishery annually in 1994 and 1995. At the time of release, 75 percent of sharks were dead, 12 percent

were disoriented, and eight percent were healthy. The odds of observing shark bycatch was highest in April and May. Stomach analyses of sharks suggest that their occurrence in the fishery is probably the result of sharks preying on gulf menhaden (deSilva *et al.*, 2001). No new data are available at this time.

Industry workers in this fishery employ a fish excluder device to reduce the retention of sharks and other large species (Rester and Condrey, 1999). In addition, a recently introduced hose cage modification may prove to be effective in reducing shark bycatch. These devices vary in effectiveness and no standards exist for such bycatch reduction measures in this fishery. In addition, there are currently no reporting requirements for takes of sharks in the menhaden purse seine fishery. Recent estimates of large coastal sharks discarded in this fishery range from 24,000 – 26,200 individuals (Cortés, 2005).

7.5.3 Shrimp Trawl Fishery

Shark bycatch in the shrimp trawl fishery consists mainly of sharks too small to be highly valued in the commercial market. As a result, few sharks are retained. Bycatch estimates of LCS in this fishery have been generated and were reviewed in a recent LCS assessment (SEDAR 11, 2006). Bycatch estimates of the SCS complex were generated for both the Gulf of Mexico and South Atlantic shrimp trawl fisheries for a recent SCS stock assessment. Requirements for turtle excluder devices in these fisheries have probably resulted in less bycatch because sharks are physically excluded from entering the gear. Bycatch of the SCS complex in the Gulf of Mexico shrimp trawl fishery consists mainly of Atlantic sharpnose and bonnethead sharks (SEDAR 13, 2007). Estimates of bycatch (numbers of fish) of small coastal sharks in the U.S. south Atlantic and Gulf of Mexico shrimp trawl fisheries and BLL fishery relative to total catch for 1992-2005 can be found in Table 7.3 of the 2009 SAFE Report. More recent estimates of blacknose shark bycatch in the shrimp fisheries can be found in the most recent stock assessment, SEDAR 21 (Cortés, E. and I. Baremore. 2011). Finetooth sharks were added as a select species for the shrimp trawl observer program in 2005 to help determine if this fishery has bycatch of finetooth sharks. Prior to this, data on finetooth shark bycatch was not recorded.

7.6 Effectiveness of Existing Pelagic Longline Time/Area Closures in Reducing Bycatch

Since 2000, NMFS has implemented a number of time/area closures and gear restrictions in the Atlantic Ocean and Gulf of Mexico for the PLL fishery to reduce discards and bycatch of a number of species (juvenile swordfish, BFT, billfish, sharks, sea turtles, etc.). Beginning in July, 2004, circle hooks were required for the entire PLL fishery as well. Preliminary analyses of the effectiveness of the closures and combined closures and circle hook requirement are summarized here.

The combined effects of the individual area closures and gear restrictions were examined by comparing the reported catch and discards from 2005-2010 to the averages for 1997-1999 throughout the entire U.S. Atlantic fishery. Previous analyses attempted to examine the effectiveness of the time/area closures only by comparing the 2001-2003 reported catch and discards to the base period (1997-1999) chosen and are included here as well for reference. The percent changes in the reported numbers of fish caught and discarded were compared to the

predicted changes from the analyses in Regulatory Amendment 1 to the 1999 FMP (NMFS, 2000). Overall effort, expressed as the number of hooks reported set, declined by 27.6 percent during 2005-2010 from 1997-1999 (Table 7.3). Declines were noted for both the numbers of kept and discards of almost all species examined including swordfish, tunas, sharks, billfish, and sea turtles. The only positive changes from the base period were the numbers of BFT and dolphin kept. The reported number of BFT kept increased by 63.7 percent for 2005-2010 compared to 1997-1999 (Table 7.3). The number of reported discards of BFT increased by almost 36 percent between the same time periods, which is more than triple the predicted 11 percent increase from the analyses in Regulatory Amendment 1. The number of dolphin kept increasing by almost 75 percent between time periods, (Table 7.3). Billfish (blue and white marlin, sailfish) discards reportedly decreased by 60.8 to 68.3 percent from 1997-1999 to 2005-2010 (Table 7.4). The reported discards of spearfish declined by only 7.1 percent, although the absolute number of discards was also low (less than 200 fish in most years). The reported number of turtle interactions decreased by 64 percent from 1997-1999 to 2005-2010.

The reported declines in swordfish kept and discarded, large coastal sharks kept, and dolphin kept decreased more than the predicted values developed for Regulatory Amendment 1. Reported discards of pelagic sharks, all billfish (with the exception of spearfish for which no predicted change was developed in Regulatory Amendment 1), and total BAYS tunas kept also declined more than the predicted values. The number of LCS discards remained almost unchanged from 1997-1999 to 2005-2010, while the number of BFT discards and dolphin kept increased more than predicted.

The reported distribution of effort over the same time periods was also examined for changes in fishing behavior (Table 7.5). Declines in the number of hooks set were noted for almost all areas with the exception of the Sargasso (SAR) area, where reported effort has increased almost eight-fold from the 1997-1999 period. However, this effort represents only two percent of the overall effort reported in this fishery. Overall, reported effort decreased by 27.6 percent from 1997-1999 to 2005-2010. Reported effort declined by only 5.9 percent in the MAB area, 8.8 percent in the South Atlantic Bight (SAB), and 18.8 percent in the Florida East Coast (FEC). Reported effort declined by 35 percent or more in all other areas with the exception of the SAR and the Gulf of Mexico. As a result of the Deepwater Horizon/BP oil spill in the Gulf of Mexico and the subsequent closures, reported effort for 2010 was dramatically reduced, less than one third of the reported effort of the previous year (2009). Although reported effort declined by 61 percent in the SAT area (Tuna North and Tuna South combined), recent effort has shown an increasing trend.

Concern over the status of BFT and the effects of the PLL fishery on the species led to a re-examination of a previous analysis which compared the reported catch and discards of select species or species groups from the MAB and NEC to that reported from the rest of the fishing areas (Table 7.6). The number of BFT discards reported from the MAB/NEC has increased over the last few years while the discards from the other areas has remained relatively constant. The increase in BFT discards in the MAB/NEC does not appear to be effort-related as the reported number of hooks set has also been relatively stable (MAB) or in decline (NEC).

Table 7.3 Total number of swordfish, bluefin tuna, yellowfin tuna, bigeye tuna, total BAYS (bigeye, albacore, yellowfin and skipjack tuna), reported landed or discarded in the U.S. Atlantic PLL fishery, 1997 – 2010, and percent change from 1997-99. Predicted values from Regulatory Amendment 1 where Pred ¹ = without redistribution of effort, Pred ² = with redistribution of effort. Source: HMS Logbook data.

Year	Number of hooks set (x1000)	Swordfish kept	Swordfish discards	Bluefin tuna kept	Bluefin tuna discards	Yellowfin tuna kept	Yellowfin tuna discards	Bigeye tuna kept	Bigeye tuna discards	Total BAYS kept	Total BAYS discards
1997-99	8,533.1	69,131	21,519	238	877	72,342	2,489	21,308	1,133	101,477	4,224
A) 2001-03	7,364.1	50,838	13,240	212	607	55,166	1,827	13,524	395	76,116	3,069
2004	7,325.9	46,950	10,704	476	1,031	64,128	1,736	8,266	486	77,989	3,452
2005	5,922.6	41,239	11,158	376	766	43,833	1,316	8,383	369	57,237	2,545
2006	5,662.0	38,241	8,900	261	833	55,821	1,426	12,491	257	73,058	2,865
2007	6,290.6	45,933	11,823	357	1,345	56,062	1,452	8,913	249	70,390	3,031
2008	6,498.1	48,000	11,194	343	1,417	33,774	1,717	11,254	356	50,108	3,427
2009	6,978.9	45,378	7,484	629	1,290	40,912	1,701	10,379	397	57,461	3,555
2010	5,729.1	33,813	6,107	392	1,488	32,567	748	12,561	476	51,786	1,590
B) 2005-10	6,177.2	41,186	9,4298	389.7	1,189.8	43,820.7	1,393	10,654.8	350.2	59,988.8	2,834.3
% dif (A)	-13.7	-26.5	-38.5	-10.9	-30.7	-23.7	-26.6	-36.5	-65.2	-25.0	-27.3
% dif (B)	-27.6	-40.4	-56.2	63.7	35.7	-39.4	-44.0	-50.0	-69.1	-40.9	-32.9
Pred ¹		-24.6	-41.5		-1.0					-5.2	
Pred ²		-13.0	-31.4		10.7					10.0	

Table 7.4 Total number of pelagic sharks, large coastal sharks, dolphin (mahi mahi), and wahoo reported landed or discarded and number of billfish (blue and white marlin, sailfish, spearfish) and sea turtles reported caught and discarded in the U.S. Atlantic PLL fishery, 1997 – 2010 and percent change from 1997-99. Predicted values from Regulatory Amendment 1 where Pred ¹ = without redistribution of effort, Pred ² = with redistribution of effort. Source: HMS logbook data.

Year	Pelagic sharks kept	Pelagic shark discards	Large coastal sharks kept	Large coastal shark discards	Dolphin kept	Dolphin discards	Wahoo kept	Wahoo discards	Blue marlin discards	White marlin discards	Sailfish discards	Spearfish discards	Sea turtles
1997-99	3,898	52,093	8,860	6,308	39,711	608	5,172	175	1,621	1,973	1,342	213	596
A) 2001-03	3,237	23,017	5,306	4,581	29,361	322	3,776	74	815	1,045	341	139	429
2004	3,460	25,414	2,304	5,144	39,561	295	4,674	35	713	1,060	425	172	370
2005	3,150	21,560	3,365	5,881	25,709	556	3,360	280	569	990	367	155	154
2006	2,098	24,113	1,768	5,326	25,658	1,041	3,608	100	439	557	277	142	128
2007	3,504	27,478	546	7,133	68,124	467	3,073	52	611	744	321	147	300
2008	3,500	28,786	115	6,732	43,511	404	2,571	82	686	669	505	196	476
2009	3,060	33,721	403	6,672	62,701	433	2,648	81	1,013	1,064	774	335	137
2010	3,872	45,511	434	6,726	30,454	174	749	26	504	605	312	212	94
B) 2005-10	3,197.0	30,193.0	1,105.2	6,407.5	42,681.3	512.5	2,667.5	103.5	635.8	771.2	425.3	197.5	214.7
% dif (A)	-17.0	-55.8	-40.1	-27.4	-26.1	-47.0	-27.0	-57.8	-49.7	-47.0	-74.6	-34.6	-28.1
% dif (B)	-18.0	-42.0	-87.5	1.6	7.5	-15.7	-48.4	-40.7	-60.8	-60.9	-68.3	-7.1	-64.0
Pred ¹	-9.5	-2.0	-32.1	-42.5	-29.3				-12.0	-6.4	-29.6		-1.9
Pred ²	4.1	8.4	-18.5	-33.3	-17.8				6.5	10.8	-14.0		7.1

Table 7.5 Reported distribution of hooks set by area, 1997-2010, and percent change from 1997-99 (CAR=Caribbean, GOM=Gulf of Mexico, FEC=Florida East Coast, SAB=South Atlantic Bight, MAB=Mid-Atlantic Bight, NEC=Northeast Coastal, NED=Northeast Distant, SAR=Sargasso, NCA=North Central Atlantic, and SAT=Tuna North & Tuna South). Source: HMS logbook data.

Year	CAR	GOM	FEC	SAB	MAB	NEC	NED	SAR	NCA	SAT	Total
1997-99	328,110	3,346,298	722,580	813,111	1,267,409	901,593	511,431	14,312	191,478	436,826	8,533,148
A) 2001-03	175,195	3,682,536	488,838	569,965	944,929	624,497	452,430	76,130	222,070	127,497	7,364,086
2004	298,129	4,118,468	264,524	672,973	856,521	462,171	455,862	128,582	20,990	47,730	7,325,950
2005	180,885	3,037,968	323,551	467,680	835,091	356,696	462,490	110,107	55,716	92,382	5,922,566
2006	73,774	2,577,231	281,239	544,647	1,085,640	406,199	339,586	135,575	64,500	153,620	5,662,011
2007	32,650	2,914,475	345,486	737,873	1,319,056	326,532	285,827	100,336	11,409	207,598	6,281,242
2008	87,190	2,368,381	642,846	846,984	1,423,136	579,244	224,635	147,969	16,148	152,763	6,489,246
2009	34,783	3,037,197	830,348	847,525	1,199,657	481,110	262,003	107,172	0	179,152	6,978,947
2010	77,710	1,005,764	1,097,929	1,002,748	1,295,242	657,892	211,465	141,713	3,096	235,553	5,729,112
B) 2005-10	81,165	2,490,169	586,900	741,243	1,192,970	467,946	297,668	123,812	25,145	170,178	6,177,196
% dif (A)	-46.6	10.0	-32.3	-29.9	-25.4	-30.7	-11.5	431.9	16.0	-70.8	-13.7
% dif (B)	-75.3	-25.6	-18.8	-8.8	-5.9	-48.1	-41.8	765.1	-86.9	-61.0	-27.6

Table 7.6 Number of bluefin tuna (BFT), swordfish (SWO), sharks (PEL-pelagic; LCS-Large Coastal Sharks), billfish, and turtles reported kept and/or discarded in the Mid-Atlantic Bight (MAB) and Northeast Coastal (NEC) areas combined, 1997-2010. Source: HMS logbook Data.

Year	Hooks set (x1000)	SPECIES									
		BFT kept	BFT discards	SWO kept	SWO discards	PEL shark kept	PEL shark discards	LCS kept	LCS discards	Billfish discards	Turtle interactions
1997	2,441.1	96	583	6,330	3,663	3,062	40,515	6,670	958	803	52
1998	2,207.4	94	1,157	9,684	4,923	2,143	28,579	1,781	890	401	57
1999	1,858.5	70	335	8,213	4,331	1,680	12,479	1,966	736	818	174
2000	1,645.4	26	356	8,748	2,846	2,099	13,083	4,744	1,407	240	30
2001	1,975.3	45	200	10,661	4,000	2,537	9,013	4,383	997	310	69
2002	1,582.3	18	389	10,986	4,219	2,378	7,308	2,331	1,207	311	41
2003	1,150.7	67	471	10,888	3,022	2,222	6,929	2,787	1,429	172	42
2004	1,318.7	128	709	8,486	2,463	2,323	7,594	923	1,488	219	54
2005	1,191.8	96	575	9,184	2,420	1,912	7,026	2,512	2,433	473	44
2006	1,491.8	124	737	10,278	2,564	1,428	7,547	1,279	2,180	266	28
2007	1,645.6	137	1,148	14,102	3,082	2,313	8,169	431	2,861	407	55
2008	2,002.5	143	1,133	13,208	3,199	2,695	9,541	63	1,781	320	100
2009	1,608.8	137	952	12,657	1,896	2,256	14,113	206	2,210	299	16
2010	1,953.1	155	1,301	9,090	1,546	3,326	17,033	408	2,293	376	32

Table 7.7 Number of bluefin tuna (BFT), swordfish (SWO), sharks (PEL-pelagic; LCS-Large Coastal Sharks), billfish, and turtles reported kept and/or discarded in all areas other than the Mid-Atlantic Bight (MAB) and Northeast Coastal (NEC), 1997-2010. Source: HMS logbook Data.

Year	Hooks set (x1000)	SPECIES									
		BFT kept	BFT discards	SWO kept	SWO discards	PEL shark kept	PEL shark discards	LCS kept	LCS discards	Billfish discards	Turtle interactions
1997	7,233.5	111	123	62,892	16,892	2,048	41,507	7,076	6,911	6,091	215
1998	5,823.9	143	164	60,943	18,422	1,588	16,682	4,677	4,687	3,364	833
1999	6,035.1	200	269	59,331	16,325	1,172	16,516	4,409	4,741	3,968	458
2000	6,376.5	210	382	54,787	13,860	969	14,965	3,014	5,320	3,394	241
2001	5,767	138	148	38,575	10,448	974	14,941	2,127	3,895	1,723	352
2002	5,647.3	160	204	39,453	8,963	693	15,160	1,746	2,761	2,866	426
2003	5,969.7	208	410	41,950	9,067	907	14,842	2,565	3,453	1,641	357
2004	6,007.3	348	322	38,464	8,241	1,137	17,820	1,381	3,656	2,151	316
2005	4,730.8	280	191	32,055	8,738	1,238	14,534	853	3,448	1,608	110
2006	4,170.2	137	96	27,963	6,336	670	16,566	489	3,146	1,149	100
2007	4,645.1	200	197	31,831	8,741	1,191	19,309	115	4,272	1,416	245
2008	4,495.7	200	284	29,592	7,995	805	19,245	52	4,951	1,736	376
2009	5,298.2	492	338	32,721	5,588	804	16,608	197	4,462	2,887	121
2010	3,775.9	237	187	24,723	4,561	546	28,478	26	4,433	1,257	62

7.6.1 Prohibition of Live Bait in the Gulf of Mexico

Regulatory Amendment 1 to the 1999 FMP also prohibited the use of live bait on PLL gear in the Gulf of Mexico due to concerns over the incidental bycatch of billfish. Based on logbook data, the number of hooks reported set with live bait or a combination of live and dead bait in the Gulf of Mexico decreased from 22.7 percent in 2000, to less than 0.1 percent in 2003 (Table 7.8). However, the number of hooks reported set with no bait type specified increased from zero in 1999 – 2001 to 3.7 percent in 2003, declining to less than one percent in 2004. Nearly all of the hooks reported set in the Gulf of Mexico in the past four years have been set with dead bait. NMFS will continue to analyze the effectiveness of the live bait prohibition in the Gulf of Mexico PLL fishery.

Table 7.8 Comparison of the number of hooks (thousands) reported set in the Gulf of Mexico with dead, artificial, or live bait, or a combination of baits, 1999-2010. Source: PLL Logbook data.

Bait Type	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Dead	2,336 (70.9)	2,598 (77.3)	3,176.5 (98.3)	3,494.6 (97.6)	3,668.7 (96.3)	4,089.0 (99.8)	2,878.9 (94.8)	2,368.2 (91.9)	2,908.5 (99.6)	2,359.9 (99.3)	3,035.3 (99.91)	1,005.3 (99.95)
Live	372 (11.3)	259 (7.7)	5,500.0 (0.2)	0.7 (<0.1)	1.5 (<0.1)	0 (0)	0 (0)	0 (0)	1.2 (<0.1)	0 (0)	1.7 (0.06)	0.5 (0.05)
Both (DL)	585 (17.8)	506 (15.0)	49.3 (1.5)	13.1 (0.4)	1 (<0.1)	0 (0)	0.9 (<0.1)	0 (0)	0 (0)	0 (0)	0.65 (0.02)	0 (0)
Artificial	-	-	-	-	-	-	0 (0)	8.7 (0.3)	0 (0)	3.2 (0.25)	0.35 (0.01)	0 (0)
Both (DA)	-	-	-	-	-	-	20.3 (0.7)	14.2 (0.6)	0.7 (<0.1)	6.95 (0.44)	0 (0)	0 (0)
Unknown	0 (0)	0 (0)	0 (0)	71.0 (2.0)	139.6 (3.6)	8.0 (0.2)	137.5 (4.5)	186.1 (7.2)	10.4 (0.4)	0 (0)	0 (0)	0 (0)
Total hooks	3,293	3,363	3,231.2	3,579.5	3,810.8	4,097.0	3,037.5	2,577.2	2,920.7	2,370.1	3,0379.5	1,005.8

Numbers in parentheses are percent of the total number of hooks set in the Gulf of Mexico

7.6.2 Conclusion

The time/area closures and live bait prohibition in the Gulf of Mexico have been successful at reducing bycatch in the HMS PLL fishery. Reported discards of all species of billfish have declined. The reported number of turtles caught, swordfish discarded, and pelagic and LCS discards have also declined. However, the reported number of target species kept, such as swordfish and BAYS tuna have decreased more than was predicted. This is contrary to the other objective of the time/area closures, which was to minimize the reduction in target catch. NMFS will continue to analyze these measures as additional data become available and examine the effects of ongoing regulatory change over time.

7.7 Evaluation of Other Bycatch Reduction Measures

NMFS continues to monitor and evaluate bycatch in HMS fisheries through direct enumeration (pelagic and BLL observer programs, shark gillnet observer program), evaluation of management measures (closed areas, trip limits, gear modifications, etc.), and VMS.

7.8 Chapter 7 References

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