

ISSUES AND OPTIONS PAPER
FOR
REVISED MANAGEMENT OF HIGHLY MIGRATORY SPECIES
IN THE U.S. CARIBBEAN

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Table of Contents

1.0	Purpose of This Document and the Scoping Process.....	3
2.0	Management History.....	5
2.1.	Highly Migratory Species Management	5
2.2.	Atlantic Tunas.....	6
2.3.	Atlantic Swordfish	7
2.4.	Atlantic Sharks.....	9
2.5.	Atlantic Billfish.....	11
2.6.	Status of Stocks.....	13
3.0	Issues and Options: Vessel Permitting.....	15
3.1.	Description of the Issue	15
3.2.	Options Available for Consideration	16
4.0	Issues and Options: Dealer Permitting.....	16
4.1.	Description of the Issue	16
4.2.	Options Available for Consideration	17
5.0	Issues and Options: Commercial Reporting	17
5.1.	Description of the Issue	17
5.2.	Options Available for Consideration	18
6.0	Issues and Options: Recreational Reporting.....	18
6.1.	Description of the Issue	18
6.2.	Options Available for Consideration	18
7.0	Issues and Options: Authorized Gear	18
7.1.	Description of the Issue	18
7.2.	Options Available for Consideration	19
8.0	References Cited	20

1.0 PURPOSE OF THIS DOCUMENT AND THE SCOPING PROCESS

The National Marine Fisheries Service (NOAA Fisheries) intends to amend the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP) (Consolidated HMS FMP) to address several issues in the U.S. Caribbean. This amendment will examine management alternatives that aim to improve permitting and data collection, enhance enforcement of regulations, and maintain the United States' compliance with multilateral treaties relating to HMS.

This scoping or comment phase is an integral first step in informing the public of management issues and soliciting public comment on possible future regulatory actions. Involving the public, to the greatest extent practicable, is paramount to achieving appropriate regulatory actions and measures that best serve the public's interests. This issues and options document describes relevant issues related to HMS, current management and legal requirements, and some possible options being considered to address the identified issues.

Public input is critical during the FMP Amendment process and is one way to ensure that a full range of alternatives to current management measures and regulations is explored. NOAA Fisheries is cognizant of the fact that the views of commercial fishing, recreational fishing, conservation, academia, Regional Fishery Management Councils, states, and the general public are important for attaining appropriate management of HMS. NOAA Fisheries seeks and encourages comments from these parties via the circulation of this issues and options document. NOAA Fisheries anticipates that additional issues and options will be identified during the public scoping meetings (see Table 1). These additional issues and options will also be considered when developing the Draft Amendment 4 to the Consolidated HMS FMP and its proposed rule (see Table 2).

Table 1 Scoping Schedule.

Date	Time	Meeting Locations	Address
August 14, 2008	5:30 pm - 7:30 pm	St. Thomas, VI	USVI Department of Planning and Natural Resources, Cyril E. King Airport, Terminal Building 2 nd Floor, St. Thomas, VI 00802
September 8, 2008	3 pm – 5 pm	San Juan, PR	Biblioteca Carnegie, Ave. Ponce de León #7, San Juan, PR 00901-2010

Date	Time	Meeting Locations	Address
September 9, 2008	4 pm – 6 pm	Fajardo, PR	Salón Centro de Usos Múltiples de Fajardo, Estacionamiento Municipal, Último Piso, Esquina de Calle Dr. López y Calle Celis Aguilera, Fajardo, PR 00738 (Detrás de la Plaza del Mercado de Fajardo) For additional location information call the Servicio de Extensión Agrícola at 787-863-0352
September 10, 2008	2 pm – 4 pm	Ponce, PR	Servicio de Extensión Agrícola, 2440 Ave. Las Americas, Ste. 208, Centro Gubernamental, Ponce, PR 00717-2111
September 11, 2008	7 pm – 9 pm	Mayagüez, PR	University of Puerto Rico, Mayagüez Campus, Physics Building, Room 310, Mayagüez, PR 00680

Table 2 Preliminary Schedule for the Development of Amendment 4 to the Consolidated HMS FMP.

Date	Action
May 27, 2008	Publication of the Notice of Intent to Prepare the Amendment/Environmental Impact Statement in the <u>Federal Register</u> (73 FR 30381)
October 31, 2008	End of the Comment Period of Notice of Intent
August - September, 2008	Scoping Meetings
September, 2008	HMS Advisory Panel Meeting, Silver Spring, MD
Summer 2009	Draft Amendment and Proposed Rule Published
Fall 2009	End of Comment Period on Proposed Rule and Draft Amendment
Winter 2010	Final Amendment Published
Spring 2010	Final Rule Published and Effective

2.0 MANAGEMENT HISTORY

2.1. Highly Migratory Species Management

Prior to 1990, the five Atlantic Regional Fishery Management Councils (New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, and Caribbean) had authority to manage Atlantic HMS in their regions. In 1985, those councils implemented the original Swordfish FMP and, in 1988, the original Billfish FMP.

On November 28, 1990, the President of the United States signed into law the Fishery Conservation Amendments of 1990. This law amended the Magnuson Act and gave the Secretary of Commerce the authority to manage Atlantic tuna and other HMS in the exclusive economic zone (EEZ) of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea (16 U.S.C. 1811 and 16 U.S.C. 1854(f)(3)). The Secretary subsequently delegated this authority to manage these HMS to NOAA Fisheries. In 1996, Congress amended the Magnuson Act with the Sustainable Fisheries Act, re-naming it the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), to require that NOAA Fisheries establish advisory panels (APs) to assist in the development of FMPs and FMP amendments for Atlantic HMS. As a result, NOAA Fisheries established the HMS and Billfish APs and, in 1999, finalized and implemented the 1999 Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (1999 FMP) and Amendment 1 to the Atlantic Billfish FMP. In 2003, NOAA Fisheries amended the 1999 FMP. In 2006, NOAA Fisheries published the 2006 Consolidated HMS FMP which consolidated the 1999 FMP and the Atlantic Billfish FMP and their amendments and combined the two separate APs into a single panel. The 2006 Consolidated HMS FMP has since been amended by Amendment 2 to the Consolidated HMS FMP in 2008, which focuses on shark management measures. NOAA Fisheries is currently working on Amendment 1 to the Consolidated HMS FMP, which focuses on essential fish habitat. NOAA Fisheries is also working on Amendment 3 to the Consolidated HMS FMP which will focus on management measures for small coastal sharks. The regulations for Atlantic HMS can be found at 50 CFR part 635.

Since 1966, the International Commission for the Conservation of Atlantic Tunas (ICCAT) has been responsible for international conservation and management of tuna and tuna-like species. ICCAT currently includes 46 contracting parties, including the United States, and its stated objective is to “cooperate in maintaining the populations of these fishes at levels which will permit the maximum sustainable catch for food and other purposes.” Atlantic tunas, swordfish, and billfish are subject to ICCAT management authority. ICCAT also assesses the stock status of some pelagic shark species.

Recommendations adopted by ICCAT are promulgated in the United States under the Atlantic Tunas Convention Act (ATCA), which was signed in 1975 (16 U.S.C. 971) and authorizes the Secretary of Commerce to administer and enforce all provisions of ICCAT.

2.2. Atlantic Tunas

Management History

Bluefin tuna (BFT) are managed under the Consolidated HMS FMP. ICCAT determines quotas for BFT based on recommendations from its Standing Committee on Statistics and Research (SCRS), and NOAA Fisheries implements the quotas pursuant to ATCA. In 1998, ICCAT adopted a recommendation for a rebuilding program for western Atlantic BFT with the goal of reaching stock levels to support maximum sustainable yield (MSY) in 20 years. The annual western Atlantic BFT total allowable catch (TAC) of approximately 2,100 metric tons (mt) whole weight (ww) is shared between the United States, Japan, Canada, the United Kingdom territory of Bermuda, the French territories of St. Pierre and Miquelon, and Mexico. The BFT rebuilding program provides NOAA Fisheries with flexibility to alter the TAC, the MSY target, and/or the rebuilding period based on scientific advice.

All tuna species comprising the bigeye (BET), albacore (ALB), yellowfin (YFT), and skipjack (SKJ) complex (referred to as BAYS tunas) are also managed under the Consolidated HMS FMP and are subject to ICCAT and ATCA provisions. Detailed information regarding the management history of BFT and BAYS tunas is provided in the Consolidated HMS FMP and the 2007 Stock Assessment and Fishery Evaluation (SAFE) report.

Description of the Atlantic Tunas Fisheries

In the United States, Atlantic tuna permits are currently issued in seven categories: General, Angling, Charter/Headboat, Harpoon, Purse Seine, Longline, and Trap. The Purse Seine category has been managed under an Individual Transferable Quota (ITQ) system since 1982. After issuance of the 1999 FMP, the Angling and Charter/Headboat categories were changed from tuna-specific to all HMS. The HMS Angling category permit is required to fish for sharks, swordfish, billfish, and/or tunas recreationally, and the HMS Charter/Headboat permit is required for vessels that are for-hire and target HMS. The Longline category permit is only valid if the vessel owner also holds both an Atlantic swordfish and an Atlantic shark limited access permit (LAP). The General, Trap, and Harpoon category permits are open access and only allow for the harvest of tunas. Federal dealers for HMS are also required to have a Federal dealer permit.

As of May 2008, there were approximately 33,627 vessels permitted to participate in the Atlantic tuna fisheries, including: 25,356 Angling category vessels; 3,906 General category vessels; 4,097 Charter/Headboat category vessels; 230 Longline category vessels; 25 Harpoon category vessels; 9 Trap category vessels; and 4 Purse Seine category vessels. Of these permits, 99 General, 21 Charter/Headboat, and 805 Angling category permits were held by fishermen in Puerto Rico; 6 General, 10 Charter/Headboat, and 28 Angling category permits were held by fishermen in St. Thomas; 13 General, 4 Charter/Headboat, and 26 Angling category permits were held by fishermen in St. Croix; and 1 General, 7 Charter/Headboat, and 2 Angling category permits were held by fishermen in St. John.

As of May 2008, there were approximately 349 BAYS and 320 BFT dealer permits issued. Of those permits, 6 BAYS and 1 BFT dealer permit were issued to businesses in Puerto Rico; 1 BAYS and 1 BFT dealer permit were issued to businesses in St. Thomas; 2 BAYS dealer permits were issued to businesses in St. Croix; and 1 BAYS dealer permit was issued to a business in St. John.

In the Caribbean, commercial tuna fishermen primarily use pelagic longline, rod and reel, and handline gears. In 2006, vessels fishing in the Caribbean landed approximately 188.0 mt of YFT, 18.2 mt of SKJ, 11.0 mt of BET, and 10.9 mt of ALB. Of the 228.1 mt of tunas landed, 201.7 mt was reported as captured with pelagic longline (PLL) gear (NOAA Fisheries, 2007). Since no Longline category permits are held by residents of Puerto Rico or the USVI, it can be assumed that these tuna landings were reported by vessels fishing in the Caribbean but based out of other U.S. ports. Approximately 26.4 mt of tunas were reported as harvested with handline and rod and reel gears (NOAA Fisheries, 2007). The handline and rod and reel landings were likely reported by Caribbean fishermen fishing under General or Charter/Headboat category permits.

2.3. Atlantic Swordfish

Management History

The U.S. Atlantic swordfish fishery is managed under the Consolidated HMS FMP under the authority of the Magnuson-Stevens Act and ATCA. There are two distinct management units for swordfish in the Atlantic Ocean, north and south, divided at 5° N latitude. Because the southern stock is located south of 5° N latitude, South Atlantic swordfish are not within the management authority of the Magnuson-Stevens Act. However, the stock and its fishery are included in the Consolidated HMS FMP because South Atlantic swordfish are managed by ICCAT and because there are U.S. fishermen who fish in the South Atlantic.

The first Atlantic swordfish FMP was completed and implemented in 1985 by the South Atlantic Fishery Management Council in cooperation with other Atlantic Fishery Management Councils. This FMP laid the groundwork for defining approved fishing methods, determining optimum yield and status of the stocks, implementing variable season closures, and regulating foreign fishing in U.S. waters. Swordfish management was transferred from the Fishery Management Councils to NOAA Fisheries in 1991. Since that time, numerous management initiatives have been implemented including a minimum size limit, commercial quotas changes, and a prohibition on drift gillnets for swordfish.

In response to a 1996 stock assessment that indicated that biomass was only 58 percent of that needed to support MSY, ICCAT further reduced North Atlantic swordfish quotas for 1997 through 1999, although the TAC still exceeded replacement yield. In 1997, the SCRS determined that the failure to achieve significant overall reductions in North Atlantic fishing mortality, due in part to non-compliance by some fishing nations, resulted in the need for more severe reductions to achieve the recovery of this over-

exploited species. Also in 1997, as a result of changes to the Magnuson-Stevens Act, NOAA Fisheries began the process of establishing a rebuilding plan for North Atlantic swordfish. This process was completed in 2000, with the publication of the 1999 FMP and a 2000 rulemaking, that revised quotas for swordfish, established size and retention limits, enacted bycatch reduction measures, and initiated swordfish LAPs. Since that time, other management measures affecting commercial swordfish fishermen have been implemented, including: time/area closures and mandatory use of circle hooks in the PLL fishery; bait restrictions; gear requirements; mandatory workshop training; mandatory vessel monitoring systems (VMS); and, changes to authorized gears and vessel upgrading restrictions. The implementation of these measures has resulted in the North Atlantic swordfish stock being almost fully rebuilt ($B = 0.99 B_{msy}$) as of 2007. However, the numbers of active participants and permit holders in the pelagic longline fishery have declined significantly over the past decade.

Description of the Swordfish Fishery

The U.S. directed fishery for North Atlantic swordfish is limited by regulation to two gear types: longline and handgear. Pelagic longlining accounts for the majority of U.S. swordfish landings; however, there is increasing effort in the commercial handgear and recreational fisheries. Driftnets were allocated two percent of the U.S. North Atlantic directed fishery quota in the past; however, this gear was prohibited by NOAA Fisheries in 1999. Also in 1999, NOAA Fisheries limited access to the commercial fishery. Incidental catches by fishing gears other than pelagic longline and handgear are restricted by incidental commercial retention limits of 15 to 30 swordfish per trip depending on gear type and are counted against the incidental catch quota. As of May 2008, there were a total of 171, 72, and 79 LAPs issued for directed, incidental, and handgear swordfish fishing, respectively. Currently, no LAPs allowing commercial swordfish fishing are held by residents of Puerto Rico or the USVI. One swordfish dealer permit is issued to a business in Puerto Rico. In 2006, 88.9 mt of swordfish were reported as harvested from the Caribbean (NOAA Fisheries, 2007). All of those landings were reported as harvested with pelagic longline gear and likely by vessels not based in Caribbean ports.

The recreational swordfish fishery interacted with few Atlantic swordfish in the past. However, the 1999 FMP required that all recreational swordfish landings be subtracted from the U.S. incidental quota, and mortality be reported to ICCAT. One objective of the 1999 FMP was to rebuild the swordfish stock such that recreational fishermen may enjoy an enhanced recreational experience through higher interactions with swordfish. As the North Atlantic swordfish stocks rebuilt, the recreational swordfish fishery became very popular. In 2007, recreational fishermen reported 716 swordfish harvested in the recreational non-tournament swordfish fishery. An additional 274 swordfish were harvested in recreational fishing tournaments and reported to NOAA Fisheries through the Recreational Billfish Survey. In 2007, no recreationally landed swordfish were reported from Puerto Rico or the USVI.

Swordfish may be retained on recreational vessels permitted in the HMS Angling or Charter/Headboat category. As discussed above, as of May 2008, there were 25,356 Angling and 4,097 Charter/Headboat category permits issued. Of those 29,453 permits,

805 Angling and 21 Charter/Headboat category permits were issued to fishermen in Puerto Rico; 28 Angling and 10 Charter/Headboat category permits were issued to fishermen in St. Thomas; 26 Angling and 4 Charter/Headboat category permits were issued to fishermen in St Croix; and 2 Angling and 7 Charter/Headboat category permits were issued to fishermen in St John.

Detailed information on swordfish landings can be found in the Consolidated HMS FMP and the 2007 SAFE Report.

2.4. Atlantic Sharks

Management History

Sharks have been managed by the Secretary of Commerce since 1993. At that time, NOAA Fisheries implemented the FMP for Sharks of the Atlantic Ocean, which established three management complexes: large coastal sharks (LCS), small coastal sharks (SCS), and pelagic sharks. This 1993 FMP implemented commercial quotas for LCS and pelagic sharks and established recreational retention limits for all sharks, consistent with the LCS rebuilding program. As a result of the 1996 amendments to the Magnuson-Stevens Act, the 1999 FMP revised much of the management of Atlantic sharks, including establishing new commercial quotas, a commercial size limit, a recreational bag limit, a new rebuilding plan for LCS, and a limited access program for the commercial fishery.

In 2002, based on new stock assessments for LCS and SCS, NOAA Fisheries began the process to develop Amendment 1 to the 1999 FMP. Final Amendment 1 and its implementing regulations were published in late 2003 and included: aggregating the LCS complex, using maximum sustainable yield as a basis for setting commercial quotas, eliminating the commercial minimum size, establishing regional commercial quotas and trimester commercial fishing seasons, adjusting the recreational bag and size limits, establishing gear restrictions to reduce bycatch and bycatch mortality, establishing a time/area closure off the coast of North Carolina, removing the deepwater/other sharks from the management unit, establishing a mechanism for changing species on the prohibited species list, updating essential fish habitat identifications for five species of sharks, and changing the administration for issuing permits for display purposes.

In the Consolidated HMS FMP, NOAA Fisheries, among other things, required that sharks be landed with their second dorsal and anal fin still attached, required shark dealers to attend shark identification workshops, and required gillnet, bottom longline, and pelagic long fishermen to attend workshops on the safe handling and release of protected resources.

In Amendment 2 to the Consolidated HMS FMP, NOAA Fisheries focused on additional shark management measures. These included, but were not limited to, removing sandbar sharks from the LCS complex and establishing a non-sandbar LCS complex; setting new sandbar, non-sandbar LCS, and porbeagle shark commercial quotas; establishing a sandbar shark research fishery with prohibition on the retention of sandbar sharks outside

