



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 260205-0038]

RIN 0648-BI10

Atlantic Highly Migratory Species; Spatial Fisheries Management; Amendment 15 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and
Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule implements Amendment 15 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (HMS FMP) (Amendment 15). This final action modifies the timing of the Mid-Atlantic shark closed area, modifies the boundaries of the Charleston Bump and East Florida Coast closed areas to create low- and/or high-bycatch-risk areas, and maintains the current boundaries and timing of the DeSoto Canyon closed area. This action also establishes a process to collect data from all the spatial management areas and review that data as needed and on a regular basis, while also renaming the closed areas to more closely reflect their intended uses. This rule does not implement a fleet-wide requirement for vessel owners to pay for electronic monitoring sampling costs as proposed but requires pelagic longline vessel owners to pay for the electronic monitoring sampling costs if their vessels choose to fish within the low-bycatch-risk areas of the Charleston Bump and East Florida Coast spatial management areas. This final action directly affects bottom and pelagic longline fishermen who hold Atlantic HMS fishing permits.

DATES: This final rule is effective [*INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

ADDRESSES: Copies of the supporting documents, including the final environmental impact statement (FEIS) and its Record of Decision, the Regulatory Impact Review (RIR), the Final Regulatory Flexibility Analysis (FRFA), the Issues and Options for Research and Data Collection in Closed and Gear Restricted Areas in Support of Spatial Fisheries, the peer-reviewed journal article regarding the predictive modeling program used in support of this rulemaking, the detailed spatial management StoryMap, and the HMS FMP and amendments are available from the HMS website at <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to the HMS Management Division and to www.reginfo.gov/public/do/PRAMain. Find these particular information collections by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Steve Durkee (steve.durkee@noaa.gov), Larry Redd, Jr. (larry.redd@noaa.gov), Randy Blankinship (randy.blankinship@noaa.gov), or Karyl Brewster-Geisz (karyl.brewster-geisz@noaa.gov) at 301-427-8503.

SUPPLEMENTARY INFORMATION:

Background

Atlantic HMS fisheries are managed under the HMS FMP and its amendments, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act or MSA; 16 U.S.C. 1801 *et seq.*) and consistent with the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). HMS are defined at 16 U.S.C. 1802(21) and the provisions for their management are at 16 U.S.C. 1854(g)(1). ATCA is

the implementing statute for binding recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). HMS implementing regulations are at 50 CFR part 635. More information regarding the authorities for this rule can be found in the “Statutory Authority” section below.

On May 5, 2023, NMFS published a proposed rule (88 FR 29050) and released Draft Amendment 15 (which included a Draft Environmental Impact Statement (DEIS), draft RIR, and Initial Regulatory Flexibility Analysis (IRFA)) and the Environmental Protection Agency (EPA) published a Notice of Availability of the DEIS (88 FR 29127). The proposed rule and Draft Amendment 15 contain background information on the potential changes to the fishery that is not repeated here. The original comment period on the proposed rule ended on September 15, 2023. Based on public requests, the comment period was extended until October 2, 2023 (88 FR 62044, September 8, 2023). NMFS held 5 public hearings and webinars between June 15 and September 18, 2023, and also briefed the Gulf, Mid-Atlantic, South Atlantic, New England, and Caribbean Fishery Management Councils. NMFS held 2 discussions on Amendment 15 with the HMS Advisory Panel (May 9, 2023 and September 6, 2023). During the comment period, NMFS received 166 written comments from individual members of the public and a variety of entities including industry associations, environmental organizations, and states. A summary of these comments and NMFS’ responses is found below.

Taking into consideration public comment, NMFS prepared Final Amendment 15, which included an FEIS, final RIR, and FRFA, and which analyzed the anticipated environmental, social, and economic impacts of a range of alternatives. On May 6, 2024, NMFS released Final Amendment 15 and the EPA published a Notice of Availability of the FEIS (89 FR 40481, May 10, 2024). NMFS received three written comments on the FEIS during the 30-day period after publication of the FEIS. A summary of the preferred

alternatives is provided below. The full list of alternatives and their analyses are provided in Final Amendment 15 and are not repeated here.

Overall, the objectives of this final rule are to: (1) use spatial management tools to minimize bycatch and bycatch mortality, to the extent practicable, while also optimizing fishing opportunities for U.S. fishing vessels; (2) develop methods of collecting target and non-target species occurrence and catch rate data from HMS spatial management areas for the purpose of assessing area performance; (3) broaden the considerations for the use of spatial management areas as a fishery management tool, including to provide flexibility to account for the highly variable nature of HMS and their fisheries, manage user conflicts, facilitate collection of information, address the need for regular evaluation and performance review, and plan for the changing environment and access to fishery resources; (4) evaluate the effectiveness of existing HMS spatial management areas, and if warranted, modify them to achieve an optimal balance of ecological, social, and economic benefits and costs; and (5) modify the HMS electronic monitoring (EM) program as necessary and appropriate to augment spatial management and address the requirements of relevant NMFS policies regarding EM. This final rule implements the preferred alternatives identified in Final Amendment 15.

In developing the final measures, NMFS considered the objectives identified above, public comments on Amendment 15 and the proposed rule, input from the HMS Advisory Panel (AP), and the FEIS, RIR, and FRFA analyses. After reviewing this information, NMFS has concluded that further analyses are needed to modify the HMS EM program fleet-wide as appropriate to address the requirements of relevant policies regarding EM, including the EM Cost Allocation Policy. To ensure that other spatial management and EM measures are finalized as expeditiously as possible, NMFS has decided to conduct additional analyses regarding the fleet-wide industry payment of EM costs in a separate future action. Comments that have already been submitted on the EM

program during the proposed rule stage of this current action will be considered in that future action, and there will be an additional comment period.

This final action implements Amendment 15 to the HMS FMP. In brief, the final management measures implemented in this rule are: (1) a modification of the Mid-Atlantic shark closed area timing; (2) a modification of the Charleston Bump and East Florida Coast closed areas to create high- and low-bycatch-risk areas; (3) the establishment of effort caps for the low-bycatch-risk areas, also known as monitoring areas, in the Charleston Bump and East Florida Coast spatial management areas; (4) the requirement that pelagic longline vessels that choose to fish within the boundaries of a monitoring area pay for the sampling costs and arrange for additional EM video review of the portion of the trip in the monitoring area; (5) the allowance for data collection through cooperative research via an exempted fishing permit for high- and low-bycatch-risk areas in the Charleston Bump, DeSoto Canyon, and East Florida Coast spatial management areas; (6) the requirement to evaluate the effectiveness of the four spatial management areas regularly once three years of catch and effort data is finalized and available, or earlier if warranted; and (7) the addition of regulatory provisions for creation and review of spatial management areas. Additionally, NMFS intends to consider the matter of funding of the HMS EM program (both administrative and sampling costs) fleet-wide, as appropriate, in a future action.

As described in the Responses to Comments below, NMFS made several changes to the preferred alternatives between the proposed and final rule, based in part on public comments. The specific changes are described below in the section titled “Changes from the Proposed Rule.”

Statutory Authority

This final rule to implement Amendment 15 to the HMS FMP is issued pursuant to, and subject to requirements of, the Magnuson-Stevens Act. Specifically, 16 U.S.C

1853(b)(2) provides for the designation of zones where fishing activities may be limited or prohibited (discussed throughout this rule as “spatial management areas”) in an FMP. 16 U.S.C 1853(a)(1) requires NMFS to include in an FMP measures, such as those establishing requirements for vessels fishing in the monitoring areas established in this rule, necessary for the conservation and management of the fishery that are consistent with the National Standards (NS) set forth in 16 U.S.C 1851(a). Among other things, the NSs state that measures must prevent overfishing while achieving optimum yield from the fishery (NS1), be based on the best scientific information available (NS2), and shall minimize bycatch and bycatch mortality to the extent practicable (NS9). To collect data on catch (including bycatch) and monitor for potential bycatch or overfishing issues, this final rule requires industry to pay for electronic monitoring sampling costs if they choose to fish within two monitoring areas that had previously been closed to fishing for over 20 years. This monitoring is authorized by 16 U.S.C 1853(b)(8) and (b)(14). *See also* 16 U.S.C 1802 (defining “observer information”). VMS, authorized under 16 U.S.C 1853(b)(4), has been a longstanding requirement in Atlantic HMS fisheries. More information can be found in Amendment 15 itself.

Response to Comments

During the comment period on the proposed rule, NMFS received 166 written comments from individual members of the public and a variety of entities including industry associations, environmental organizations, State agencies, local governments, and members of the U.S. Congress. All written comments can be found at <https://www.regulations.gov/> by searching for “0648-BI10.” NMFS also received comments during the public hearings, including the webinars, the Council meetings, and the HMS AP meetings. NMFS received three written comments on the FEIS in the 30 days after publication of the FEIS. Responses to comments are below and are organized according to subject.

Modification, Data Collection, and Evaluation of the Spatial Management Areas General

Comments

Comment 1: NMFS received comments, including from North Carolina Division of Marine Fisheries (NCDMF), Maryland Department of Natural Resources, and some non-governmental environmental and recreational fishing organizations that were supportive of evaluating the effectiveness of the existing bottom longline and pelagic longline closed areas in meeting conservation and management goals. Some commenters supported the efforts of evaluating the existing closed areas and noted that the areas continue to be closed without any evaluation since implementation. Some commenters supported evaluating the existing closed areas but expressed concerns with using longline gear to collect data. Some commenters, including the Florida Fish and Wildlife Commission, stated that pelagic longline gear should not be used to collect data in pelagic longline closed areas and that other gear types with lower bycatch concerns should be used instead. Other commenters suggested that the Agency use data from recreational gears that provide long, continuous time series from within the closed areas. After issuance of the FEIS, NMFS received a comment further noting the importance of utilizing other fishery-dependent sources of catch data from other gear types. Commenters suggested that NMFS explore ways to utilize all fisheries dependent data rather than one gear type in the closed areas.

Response: NMFS agrees that the assessment of and the collection of data in spatial management areas is critical to ensure that conservation and management needs are being achieved. As discussed in the Amendment, many of the existing closed areas have been in place for approximately 20 years, with little or no evaluation. Understanding this need, NMFS developed alternatives in the Draft Amendment 15 to guide data collection efforts to evaluate whether the spatial management areas are effective in meeting their respective conservation and management goals.

Based on public comment and further analysis and consideration, NMFS has different preferred alternatives for the spatial management areas in the Final Amendment 15 than in the Draft. For the Mid-Atlantic Shark Spatial Management Area, NMFS is finalizing no change to the area boundaries and a shift of the closure period to November 1 through May 31 (Sub-Alternative A1b). The Draft Amendment 15 and proposed rule had preferred the same period change, but with extension of the eastern boundary of the area (Sub-Alternative A1d). For the Charleston Bump Spatial Management Area, the preferred alternative in the Final Amendment is new Sub-Alternative A2f, which shifts the eastern boundary of the high-bycatch-risk area preferred in the Draft Amendment 15 (Sub-Alternative A2c), resulting in an increase in the monitoring/low-bycatch-risk area. Sub-Alternative A2f also changes the timing of the high-bycatch-risk area to February 1 through April 30, which retains the timing of the current closed area, instead of year-round under Sub-Alternative A2c. For the East Florida Coast Spatial Management Area, the preferred alternative in the Final Amendment 15 is new Sub-Alternative A3f, which shifts the northeastern boundary of the high-bycatch-risk area preferred in the Draft (Sub-Alternative A3d), resulting in an increase in the monitoring/low-bycatch-risk area. For the DeSoto Canyon Spatial Management Area, NMFS is finalizing no action (Sub-Alternative A4a), instead of modifying the area boundaries per the Draft preferred Sub-Alternative A4d.

Under the Final Amendment 15 preferred measures, NMFS will evaluate each spatial management area once three years of catch and effort data are finalized and available. However, if specific concerns were to arise, which might include but may not be limited to unexpectedly high or low bycatch, high or low data collection efforts, temporally or spatially overly-clustered fishing effort, changed conditions within the fishery as a whole, or changed status of relevant stocks, NMFS may review the spatial management areas earlier.

NMFS disagrees that other gear types could be used to characterize expected pelagic (or bottom) longline catch. In evaluating the effectiveness of the closures for longline gear, NMFS is not trying to determine if the bycatch species are present in the closed areas. Rather, NMFS is evaluating the rate at which various bycatch species are likely to be caught on longline gear in those areas. As some of the commenters noted, catch rates of bycatch species are different across each gear type. Without extensive site-specific calibration experiments, catch rates across gear types are not directly comparable. No such calibrations exist between commercial longline and other gear types, including recreational gears. Without such calibrations, NMFS could not use recreational or other non-longline gear catch rates or data to calculate the likely catch rates of longline gear in the closed areas. Additionally, different gear types have different reporting requirements and methodologies that could bias data in certain directions, reducing applicability for cross-fishery conclusions. For example, rod and reel fishermen are not required to report protected species interactions, while pelagic longline fishermen are. Therefore, the only way to accurately assess species catch rates and other characteristics is to use the specific gear that has been restricted (in this case longline gear), with additional safeguards to provide for monitoring and managing of bycatch and incidental catch to the extent practicable.

Comment 2: NMFS received comments from a commercial fishing organization expressing concern about the future viability of the fishery given current declining trends in fishing effort and pointing out that because of this reduced fishing effort, current bycatch levels in the fishery are lower relative to historical levels. Some comments stated that active pelagic longline vessels and effort have dropped dramatically since the closed areas were implemented and that the reduction in effort in combination with better fishing techniques have provided far more bycatch reduction than originally intended when the areas were implemented.

Response: NMFS acknowledges that there have been changes in the commercial longline fisheries, including reduced effort, since the closed areas were originally implemented. These changes, in addition to biological changes in target and bycatch species populations and oceanographic changes, further necessitate an evaluation of catch rates within the spatial management areas. When the closed areas were implemented, the designs were static, and there was no guidance on how to review or evaluate the efficacy of the closed areas on bycatch reduction and environmental conservation. Through the preferred “C” and “E” alternatives, Amendment 15 provides a flexible framework for the design, review, and modification of spatial management areas to respond to the changing environment, developments in fisheries modeling, dynamic fisheries management, changing regulations, and changes in the techniques and behavior of the commercial fishing industry. Within this framework, the reductions in fishing effort and improved fishing techniques that lead to bycatch reduction can be incorporated into analyses that provide for more adaptive spatial area management.

Comment 3: NMFS received comments, including from Florida Fish and Wildlife Conservation Commission, opposing increased access for pelagic longline gear and vessels in closed areas to collect data. Many of these comments pointed to the successful conservation and/or rebuilding of many species, including swordfish and billfish species, and stated that increased access for pelagic longlines in currently closed areas could jeopardize that success. Some commenters stated that allowing pelagic longline effort in closed areas could affect the conservation of important recreational target species such as billfish, negatively affecting recreational fisheries, charter fishing, tourism, and support services.

Response: NMFS agrees that implementation of the closed areas has contributed to the conservation and rebuilding of many species. However, the continued utility of the static areas in meeting current conservation and management needs, particularly in the

context of changing ocean and fishery conditions, is unknown due to the lack of data from and formal evaluation of the closed areas. NMFS disagrees that allowing limited data collection using pelagic longline gear and vessels in the proposed monitoring areas would jeopardize swordfish and billfish conservation or would negatively affect recreational fishing for these species. The stock statuses of some of these species have improved since the closed areas were established and closed areas are not the only bycatch mitigation measure. Additional bycatch mitigation measures, such as circle hook requirements and bait restrictions, have been implemented. Additionally, pelagic longline fishing effort and participation has declined dramatically since implementation of the closed areas. For example, in 2000, there were 11,065 pelagic longline sets, whereas in 2019 there were only 4,188 sets. Furthermore, consistent data collection within the footprint of current closed areas would occur only in low-bycatch-risk areas designated as monitoring areas and only with enhanced reporting requirements and effort controls. If the data being collected indicated that bycatch rates were higher than expected, NMFS could close the monitoring areas and conduct further review to determine next steps. It is also possible that data collection could occur in the high-bycatch-risk areas if a researcher applied for and received an exempted fishing permit (EFP). To be considered covered under and consistent with the impacts analyses in the FEIS, an application should incorporate effort caps, bycatch caps, monitoring, and other elements under Alternative B4. Researchers could also apply for and receive a scientific research permit (SRP). EFPs and SRPs are issued for similar activities, however, NMFS generally issues an EFP when the research activity is conducted on a recreational and/or commercial fishing vessel and issues an SRP when the research is conducted on a scientific research vessel. *See* 50 CFR 635.32(b)(SRPs) and 600.10 (defining scientific research activity, scientific research vessel, and related terms).

Comment 4: NMFS received a comment that the specific goals, including specific bycatch level goals, of the original closures need to be included and analyzed to determine if the closures have achieved the intended purpose.

Response: Information regarding the original objectives and specific bycatch goals of the closed areas can be found in Section 4.11 of the Amendment and in the original documents implementing the closed areas. However, a comprehensive review of the closed areas was needed. As discussed in the response to Comment 2 above, since the implementation of the original closures, there have been changes in the commercial longline fisheries, biological changes in target and bycatch populations, oceanographic changes, and changes in fishing techniques (*e.g.*, deep set pelagic longline gear; see Comment 37 below). Thus, this Amendment considered not only the species addressed when the current closed areas were adopted (see Section 4.11), but also current species protection needs, current conditions of the oceanographic environment, and current fishery conditions (*e.g.*, changes in regulatory requirements, stock status of managed species, *etc.*). In Amendment 15, see Section 2.3 (Selection of Species) and Chapter 2 (Methods and Development of Spatial Management Area Alternatives). One of the specific goals of Amendment 15 is to provide flexibility to account for variations and changes in fishery and environmental conditions. As such, Amendment 15 is designed to allow NMFS to consider not only the species of concern when the closed areas were implemented, but also the present and future conditions and critical needs of the U.S. fisheries and the oceanographic environment, when re-evaluating various spatial management areas. Furthermore, the approach in Amendment 15 allows NMFS to consider any ancillary benefits or concerns associated with the closed areas, which may be relevant regardless of the stated original objectives of any particular area. As discussed in Section 9.1.2 of Amendment 15, these aspects of Amendment 15 also help bring the spatial management areas more in line with Section 303(b)(2)(C) of the MSA.

Comment 5: NMFS received comments that Amendment 15 should undergo formal review by NMFS's Southeast Fisheries Science Center (SEFSC). Commenters noted that SEFSC review would ensure Amendment 15 is based on the best scientific information available, consistent with NS2.

Response: As stated in Chapter 9 of the Amendment and consistent with NS2, Amendment 15 uses the best scientific information available. Formal review by the SEFSC is not necessary or required to demonstrate compliance with NS2. NMFS has published guidelines for complying with NS2 at 50 CFR 600.315. Among other things, these guidelines state that fishery conservation and management require high quality and timely scientific information to evaluate the potential impact on living marine resources, essential fish habitat (EFH), marine ecosystems, fishery participants, fishing communities, and the nation, and also require identifying areas where management measures are needed (see § 600.315(a)(1)). NMFS consulted with and obtained input and expertise from personnel from several NMFS offices during the development of Draft and Final Amendment 15, including the SEFSC, and determined that the amendment is based on the best scientific information available. More information about the consistency of Amendment 15 with NS2 may be found in Chapter 9. More information about the agencies, organizations, and persons consulted may be found in Chapter 10.

Comment 6: NMFS received a comment stating that Amendment 15 violated the following NMFS Policies: 01-101-01 (*Procedures for Initiating Secretarial Review of Fisheries Management Plans and Amendments*), 01-101-106 (*Communication of Regional Fishery Management Council Meeting Actions*), and 01-101-09 (*Procedures to Determine Stock Status and Rebuilding Progress*).

Response: NMFS disagrees. NMFS Policies 01-101-01 and 01-101-106 are procedures related to regional fishery management councils. The Consolidated HMS FMP and its amendments are not developed through council processes but by the agency

itself as provided under sections 304(c) and (g) of the Magnuson-Stevens Act. NMFS Policy 01-101-09 describes an administrative procedure regarding stock status and rebuilding progress decisions under Magnuson-Stevens Act section 304(e). Stock status determination and rebuilding progress is not within the scope of Amendment 15; thus NMFS Policy 01-101-09 does not apply. As described throughout Amendment 15 and this rule, Amendment 15 is consistent with all required applicable laws and policies.

Comment 7: NMFS received comments about the species that should be considered when developing spatial management measures in Amendment 15. Some commenters stated that undersized swordfish and ESA-listed species such as giant manta rays and oceanic whitetip sharks should be considered when designing spatial area modifications. The South Atlantic Fishery Management Council (SAFMC) commented that dolphinfish catch should be considered, especially as the Council considers stricter regulations given concerns about that fishery.

Response: NMFS has considered the expected ecological impacts on target and non-target species, including swordfish, dolphinfish, and ESA-listed species, in the Amendment. For swordfish, the stock is fully rebuilt and landings are currently far below the scientifically-derived total allowable catch. Locations of dolphinfish catch were considered and presented in Sections 5.4.2 and 5.4.3 of Amendment 15 and further discussed in the response to Comment 10 below, along with potential impacts to the stock. All HMS commercial fisheries, including pelagic and bottom longline fisheries, have undergone consultation under section 7 of the ESA with the most recent Biological Opinions issued in May 2020. The fisheries operate under a variety of Reasonable and Prudent Measures (RPMs) and Incidental Take Statements consistent with the 2020 Biological Opinions. Interactions with ESA-listed species, including sea turtles, sperm whale, giant manta ray, scalloped hammerhead shark (Central and Southwest Atlantic Distinct Population Segment), and oceanic whitetip shark are monitored quarterly by the

HMS Management Division in coordination with the SEFSC and the Southeast Regional Office's Protected Resources Division. On July 8, 2022, the Office of Sustainable Fisheries requested reinitiation of consultation under section 7 of the Endangered Species Act (ESA) on the HMS pelagic longline fishery due to new information on giant manta ray since completion of the 2020 Biological Opinion. The consultation is ongoing. Pending completion of consultation, the fishery continues to operate consistent with the RPMs and Terms and Conditions specified in the May 2020 Biological Opinion. See Section 4.10 of Amendment 15 for more details. Finally, in 2024, ICCAT adopted Recommendation 24-12 regarding mobulid rays of the family Mobulidae. As a result, in a separate action, NMFS will be considering whether to prohibit the retention of mobulid rays, including giant manta rays, in HMS fisheries, to require mobulid rays to be released unharmed in HMS fisheries, and to implement mobulid ray handling practices for vessels fishing with pelagic longline gear.

Amendment 15 is not expected to increase fishing effort, and in fact, bottom longline and pelagic longline effort have been declining. Moreover, nothing in Amendment 15 is expected to change the characteristics of the fishery such that overfished or ESA-listed species would be affected in a manner not considered in previous analyses for the HMS FMP or the 2020 Biological Opinions. Furthermore, the final action includes numerous measures to continue to monitor and minimize bycatch, including closing areas if bycatch is higher than expected.

Comment 8: NMFS received a comment that blue marlin remain overfished and should receive additional protections. The comment also opposed the preferred Charleston Bump, East Florida Coast, and DeSoto Canyon Spatial Management Area modifications in the DEIS, noting that they do not increase protections for blue marlin. The commenter stated that Sub-Alternative A3b for East Florida Coast offers better protection for blue marlin than the Sub-Alternative A3d that was preferred at the draft

stage, but not as good as status quo. After issuance of the FEIS, NMFS received comments reiterating that the preferred spatial management area modifications do not offer protections for blue marlin and another comment stating concerns about white marlin bycatch in the monitoring areas.

Response: Data collection by pelagic longline vessels in the preferred monitoring areas will likely improve our understanding of the contribution of closed areas to reducing blue marlin fishing mortality. Without this data collection, it is difficult to assess the impact of closed areas on blue marlin rebuilding. The goal of Amendment 15 is to collect data on the effectiveness of existing closed areas and improve the data available for making HMS spatial management decisions, while continuing to minimize bycatch for multiple species.

As summarized in response to Comment 1, NMFS is preferring different alternatives in the Final Amendment 15 than in the Draft for the spatial management areas. NMFS is finalizing no action for the DeSoto Canyon Spatial Management Area (Sub-Alternative A4a). This is due in part to the proposed critical habitat designation for Rice's whale and also due to public comments expressing concern about reduced fishing opportunities if the area was expanded.

The East Florida Coast preferred sub-alternative (A3f) shifts the boundary of the high-bycatch-risk area (year-round) relative to the sub-alternative preferred at the draft stage (Sub-Alternative A3d) in response to public comment about encouraging more data collection in the monitoring/low-bycatch-risk area. In doing so, the scope value (size of the area x applicable number of months) of the high-bycatch-risk area decreased to 41 percent, with a corresponding increase in the low-bycatch-risk area scope value to 41 percent. Even with the increased effort cap for the monitoring area (Sub-Alternative B3a), impacts on bycatch species modeled by HMS PRedictive Spatial Modeling (PRiSM) are generally expected to be moderate beneficial in the short- and long-term.

This is because of the conditions and restrictions applicable to the monitoring area (Sub-Alternative B3a effort cap, Sub-Alternative B3e electronic monitoring) and low fisheries interactions with modeled bycatch species in that area. See Section 5.2.3.1 of Amendment 15 for further explanation. In addition, fishermen who choose to fish within the monitoring area will be required to report interactions with additional species, including blue and white marlin, via vessel monitoring systems (VMS). If bycatch is higher than expected in the monitoring area, NMFS will have discretion to close the area. If additional conservation and management measures become necessary for blue or white marlin, NMFS may consider these in a future action evaluating all sources of mortality in commercial and recreational fisheries.

Metric scores compare the relative impacts of high-bycatch-risk areas and provide information about conservation and conservation efficiency in those areas and allow for ranking of options. A higher score indicates a higher level of conservation protection relative to the size of the area and effective time period. The species-specific billfish metric score for the preferred East Florida Coast Spatial Management Area modification sub-alternative (Sub-Alternative A3f) is lower than the status quo and Sub-Alternative A3b metric scores. However, the billfish metric scores for all of the sub-alternatives is low (ranging from 6 to 10 with highest possible score of 48), the overall metric score for all modeled bycatch species is higher for Sub-Alternative A3f than the status quo, and the range in overall metric scores between the sub-alternatives (43 to 49) is small and low compared to the highest possible overall score of 192. See Sections 5.1.3.7 of Amendment 15 (providing table comparing metric scores) and 5.1.3.6 (providing notes under table explaining highest possible metric scores). We also note that metric score is not the only consideration in spatial management modifications. As explained in Section 5.1.3.7, metric scores do not address or speak to the broader regime of conservation and management measures – beyond spatial management areas – implemented under the

Consolidated HMS FMP and its amendments and implementing regulations. Blue marlin, white marlin, and other billfish are subject to various conservation and management measures, which are described at the end of this response. None of the preferred alternatives that will be implemented through this final rule, including for the East Florida Coast Spatial Management Area, will allow normal commercial fishing in the low-bycatch-risk areas; instead, they implement monitoring areas, which are special access areas with effort limits and enhanced reporting requirements for those who choose to fish there. Additionally, species-specific metric scores for leatherback sea turtles and shortfin mako sharks, as well as the overall metric score, are higher for the Preferred Sub-Alternative A3f than the no action sub-alternative.

Although NMFS analyzed Sub-Alternative A3b, it was not selected as a preferred sub-alternative because it would identify low-bycatch-risk areas close to shore along much of the east coast of Florida, potentially increasing gear conflict concerns with other fisheries including offshore recreational fisheries. Furthermore, Sub-Alternative A3b would only implement a monitoring area during portions of the year, and year-round data collection is important to assess the areas.

The Charleston Bump preferred sub-alternative (A2f) shifts the boundary of the high-bycatch-risk area and modifies the timing of the area to February 1 through April 30, which maintains the same timing as the current overall closed area. NMFS made these changes in response to public comment, as the larger, year-round high-bycatch-risk area designated under the Draft preferred sub-alternative (A2c) would have unnecessarily resulted in a large reduction in fishing opportunities and effort. In comparison to the no action sub-alternative, Sub-Alternative A2f provides more efficient conservation protections as despite the change in scope of the area, the sub-alternative did not result in changes to the metric score (0) for the billfish species group, which includes blue marlin and white marlin, had slightly higher scores for leatherback sea turtles, and overall is

expected to have neutral indirect ecological impacts for billfish and other modeled bycatch species. We note that billfish metric scores for all the sub-alternatives is low (ranging from 0 to 5 (Sub-Alternative A2c) with a highest possible score of 48). As explained above, fishermen will also be required to report blue marlin and other species via VMS, and NMFS has discretion to close the monitoring area or high-bycatch-risk area as needed.

NMFS notes that spatial management areas are not the only measures that offer protections for blue marlin and white marlin. The United States prohibits commercial landings and sale of billfish, including blue marlin and white marlin (50 CFR 635.19(c), 635.31(b), 600.10 (billfish definition)). In addition, the United States specifies minimum sizes for billfish (§ 635.20(d)), requires circle hooks and specific baits for tournament participants (§ 635.21(e)(1)), and requires release of billfish without removing them from the water (§ 635.21(a)(1)-(2)). Annually, the United States limits landings to 250 recreationally-caught Atlantic blue and white marlin/roundscale spearfish, combined, pursuant to a binding measure that the United States and other countries adopted at the ICCAT. See Section 1.1 for more information on ICCAT. International cooperation is needed to conserve and manage these species, given the number of countries that catch and land them throughout the Atlantic Ocean. Based on the 2019 white marlin/roundscale spearfish stock assessment and the 2024 blue marlin stock assessments conducted by ICCAT's Standing Committee on Research and Statistics, blue marlin and white marlin are overfished with overfishing not occurring. NMFS domestically manages blue marlin and white marlin/roundscale spearfish consistent with its ICCAT obligations, and Amendment 15 does not change the above-described management measures.

With respect to the comment about white marlin received after issuance of the FEIS, all of the above existing domestic and international measures offering protections to blue marlin also provide protections to white marlin. Additionally, the measures

required under Amendment 15, including near-real time reporting of interactions in monitoring areas through VMS set reports, also apply to white marlin.

Comment 9: NMFS received comments about changes to spatial management areas. One comment stated that any increase in the size or timing of closed areas would destroy the pelagic longline industry. Other comments stated that caution is warranted when reducing the spatial or temporal coverage of closed areas so as not to undermine conservation efforts and progress. One commenter stated general support for all four of the proposed spatial management area modifications. A few commenters supported simply reopening all pelagic longline closed areas.

Response: One of the objectives of Amendment 15 is to augment data collection in the spatial management areas to improve the ability to assess and manage these areas. NMFS agrees that caution should be taken when changing areas and that any changes should be consistent with FMP objectives and applicable laws, including MSA NSs. As such, NMFS developed a spatial modeling tool that predicts where and when fisheries interactions with longline gear are likely to occur. This tool was needed because longline catch information is lacking within the closed areas. Based on the model's prediction of fishery interactions, NMFS is preferring alternatives to implement monitoring areas in low-bycatch-risk areas of the Charleston Bump (Sub-Alternative A2f) and East Florida Coast (Sub-Alternative A3f) Spatial Management Areas. Monitoring areas will have additional reporting requirements and enhanced monitoring. In the Mid-Atlantic Shark Spatial Management Area (closed from November 1 through May 31), fishing and data collection will proceed in the area outside of the closure period and current data collection programs in the area, including the shark research fishery, will continue. The DeSoto Canyon Spatial Management Area will be closed year-round, but NMFS may consider requests for exempted fishing permits on a case-by-case basis.

The above-described approaches, coupled with regular evaluations of the areas, should allow NMFS to make changes as needed based on the incoming data. Overall, the designation of more efficient spatial management areas and improved access to pelagic and bottom longline target species in areas with lower bycatch-risk is expected to help achieve optimum yield, consistent with NS1 of the Magnuson-Stevens Act, without jeopardizing sustainability of any species or increasing bycatch.

Comment 10: The SAFMC expressed concern about conflicting regulations applicable to pelagic longline HMS and other fisheries. Currently, the dolphinfish/wahoo pelagic longline closed area regulations match the HMS pelagic longline closed areas. If they become misaligned, it could make compliance and enforcement difficult. If dolphinfish or wahoo are caught on pelagic longline gear in the monitoring areas, they would have to be discarded, increasing regulatory discards. Florida Fish and Wildlife Conservation Commission (FWC) commented that additional pelagic longline access to closed areas would negatively affect the dolphinfish stock for which the Commission has recently implemented more restrictive recreational catch limits in state waters to address stock status concerns.

Response: NMFS agrees that if dolphinfish or wahoo were to be caught on pelagic longline gear in the monitoring areas and retention is not allowed under applicable regulations, those species must be discarded. Although dolphinfish and wahoo are targeted by some vessels with an Atlantic Tunas Longline permit, these species are not managed under the HMS FMP. Nevertheless, because HMS and dolphinfish/wahoo are targeted with different pelagic longline gear configurations and fishing techniques, dolphinfish and wahoo comprise a relatively low portion (by weight) of the total landings in the HMS pelagic longline fishery based on 2016 through 2018 pelagic logbook data (6 percent and 1 percent, respectively; Section 2.1.2.3, Amendment 13 to the HMS FMP). Additionally, a key assumption of the modifications to the spatial management areas is

that overall fishing effort will not change, and therefore should not result in increased pelagic longline effort overall. Thus, NMFS does not believe that pelagic longline access to the monitoring areas, strictly monitored and limited, would result in large changes to dolphinfish catch and negatively affect the stock, particularly since total pelagic longline effort is unlikely to increase and, if recent trends continue, may decrease. However, NMFS acknowledges that, as has been shown in a variety of existing regulations, including regulations regarding closed areas and differences in gear types, mismatches between HMS-specific regulations and other Federal fishery regulations or state-specific regulations can make compliance and enforcement more difficult. Such mismatches can affect the efficacy of the regulations. Further consideration of the impacts of these types of mismatches in light of these comments resulted in some of the modifications in the Amendment 15 preferred alternatives regarding geographic and temporal changes to spatial areas as noted in the responses below. NMFS will continue to work with the councils and states on developing complementary measures to the extent practicable.

Comment 11: Several commenters suggested that NMFS prohibit pelagic longline gear in all areas, expressing that longline gear indiscriminately kills target and non-target species. One commenter that supported prohibiting longline gear noted the potential impact of longlines on recreational fishing tournaments on the East Coast. After issuance of the FEIS, we received a comment expressing concerns that Amendment 15 does not adequately consider the social or economic impacts on HMS and non-HMS recreational fishing communities in the southeastern U.S. Another FEIS commenter disagreed that keeping the East Florida Coast monitoring area 45 nautical miles (nmi) from shore was far enough to minimize gear conflict with the recreational fisheries.

Response: NMFS disagrees with prohibiting pelagic longline gear in all areas, as this would be inconsistent with the objectives of Amendment 15 and is not necessary for purposes of compliance with the Magnuson-Stevens Act and other applicable law. As set

forth in Section 1.4, the objectives of Amendment 15 include developing methods of collecting from, and evaluating the effectiveness of, existing spatial management areas; optimizing fishing opportunities; and minimizing bycatch and bycatch mortality to the extent practicable. The U.S. Atlantic pelagic longline fishery has numerous regulations, including gear restrictions, that conserve and manage target and non-target species. In Amendment 15, see Sections 6.1.2 (pelagic longline regulatory history) and 9.1.1 (addressing Magnuson-Stevens Act NS1 (overfishing and optimum yield) and NS9 (bycatch)). NMFS acknowledges that pelagic longline gear catches non-target finfish with little or no commercial value as well as species that cannot be retained by commercial fishermen due to regulations. Pelagic longline gear may also interact with protected species such as marine mammals and sea turtles. The pelagic longline fishery has been classified as a Category I fishery (frequent incidental mortality and serious injury of marine mammals) with respect to the Marine Mammal Protection Act (MMPA) and is subject to reporting, monitoring, and other requirements pursuant to MMPA regulations. Bycatch of ESA-listed species has been evaluated under section 7 of the ESA, and the pelagic longline fishery operates under a variety of RPMs and an Incidental Take Statement consistent with a 2020 Biological Opinion, as noted in the response to comment 7 and in Section 4.10 of Amendment 15. Any catch of non-target species or undersized permitted species that cannot be landed due to fishery regulations is required to be released regardless of whether the catch is dead or alive, and with a minimum of harm if the catch is alive.

Regarding potential impacts of pelagic longline fishing on recreational fishing, including tournaments, any increased access for the gear type would occur in two monitoring areas within the Charleston Bump and East Florida Coast Spatial Management Areas that are predominantly further than 45 nmi from shore. Although offshore recreational fishermen, including tournament participants, can operate that far

offshore, doing so is not as common as near-shore fishing. Additionally, the pelagic longline and offshore recreational fisheries have access to the same areas along most of the Atlantic and Gulf of America coasts, and gear conflicts are not common. Gear conflicts are possible in some areas where recreational fishing effort is concentrated such as off of South Florida. However, the Amendment 15 preferred monitoring areas were specifically designed to not include such locations. For example, Amendment 15 does not change closed areas south of approximately Sebastian Inlet, FL (*see* Section 3.4.3). A full discussion on impacts to recreational fisheries is also available in Section 5.4.6 in Amendment 15, including impacts to communities in the southeast U.S. The discussion focuses on HMS recreational fisheries, though there is significant overlap in recreational fishermen permitted to fish for HMS and recreational fishermen permitted to fish for pelagic species managed under other FMPs such as dolphinfish and wahoo. Given the goals in Amendment 15 to optimize the spatial management areas to better protect bycatch species, including billfish, NMFS reiterates its belief that the Amendment's measures should, in the long-term, provide more fishing opportunities for all fishermen.

With respect to the comment submitted after the release of the FEIS about gear conflict with recreational fisheries, NMFS understands that offshore recreational fishermen, including those targeting blue marlin and other billfish, can operate at distances greater than 45 nmi from shore. However, the number of recreational vessels operating in an area decreases the further the distance from shore and NMFS believes that the East Florida Coast Monitoring Area's distance from shore provides sufficient balance between minimizing gear conflict and providing areas for fishing where pelagic longline vessels are likely to voluntarily collect data - in alignment with the aspect of Objective 1's regarding optimization of fishing opportunity for U.S. fishing vessels.

Comment 12: The FWC recognized that the current regulations do not contain provisions for regular review of the spatial management areas, and that in Amendment

15, NMFS proposed to add factors such as fishery metrics, social and economic data, biological information, and climate change impacts to consider when assessing the effectiveness of spatial management areas (Alternative E2). The FWC stated that they do not have concerns regarding the inclusion of those factors. They also stated that they would not support any future modifications that would negate the benefits the closed areas have had on numerous HMS species, protected species, and non-HMS species.

Response: NMFS agrees that inclusion of additional factors is needed. The inclusion of additional factors should help ensure that any changes to spatial management areas would consider any benefits or impacts to species and the fishery.

Mid-Atlantic Shark Spatial Management Area

Comment 13: NMFS received several comments, including from the Mid-Atlantic Fishery Management Council, in support of the proposed Mid-Atlantic Shark Spatial Management Area (Sub-Alternative A1d). Comments were received in opposition to the eastern expansion of the proposed Mid-Atlantic Shark Spatial Management Area noting the low level of shark bottom longline effort. Some commenters, including the NCDMF, asserted that the proposed spatial and temporal modifications for the Mid-Atlantic Shark Spatial Management Area could negatively affect bottom longline fisheries, including those for snowy grouper and blueline tilefish, that are managed under other FMPs.

Response: Based in part on comments regarding the low level of shark bottom longline effort and the potential impacts on other bottom longline fisheries that operate in the Mid-Atlantic, NMFS is now preferring Sub-Alternative A1b for the Mid-Atlantic Shark Spatial Management Area. This alternative keeps the current footprint and duration of the closure, while shifting the timing of the closure to November 1 through May 31. In the Draft Amendment 15, NMFS preferred Sub-Alternative A1d, which proposed the same shift in timing but with an extended eastern boundary. Maintaining the current spatial boundaries will limit impacts to bottom longline fishermen that hold HMS permits

and engage in fishing in the area pursuant to other FMPs' regulations. Additionally, given the recent low fishing effort of HMS permit holders using bottom longline gear in the area, NMFS has determined that expanding the size of the area is not needed at this time. As supported by some commenters, NMFS continues to prefer a shift in the timing of the closure by two months to more closely align with the time period that has the highest likelihood of fishery interactions with sandbar, dusky, and scalloped hammerhead sharks, as evidenced by both the spatial model outputs, information from the shark research fishery, and other supporting information.

Comment 14: NMFS received a comment from the NCDMF encouraging NMFS to continue the shark research fishery as a means to monitor bycatch and frequent evaluation of those data to determine the continued feasibility of the closure and timing.

Response: NMFS agrees with continuing the shark research fishery as a data collection program. As mentioned in the Amendment, because some data is currently collected in the area through the shark research fishery, new data collection programs may not be necessary, and NMFS is finalizing no action for the data collection suite of alternatives ("B" Alternatives) for the Mid-Atlantic area at this time. NMFS will continue to collect and evaluate data through the shark research fishery to evaluate the Mid-Atlantic Shark Spatial Management Area as needed.

Charleston Bump Spatial Management Area

Comment 15: NMFS received comments, including from the NCDMF and South Carolina Department of Natural Resources (SCDNR), expressing concerns regarding the proposed Charleston Bump Spatial Management Area sub-alternative (Sub-Alternative A2c). Some commenters noted that closure of the Charleston Bump year-round or for certain months (*i.e.*, May and October through November) would have negative impacts on businesses. Some commenters noted the preferred sub-alternative would eliminate access to the western edge of the Gulf Stream along the 100-fathom shelf break year-

round, preventing shorter day trips, increasing the need for fuel, and forcing fishermen to travel further to fish in more dangerous areas in the mid-winter months. Some commenters that operate in the area stated that they would need to relocate to other areas or exit the fishery completely. Some commenters noted that other sub-alternatives or a combination of sub-alternatives could allow the fishery to continue to operate in the area and support data collection, provided access to the 100-fathom shelf break is maintained. Many commenters stated that access to that area is critical for target catch with lower bycatch. Additionally, some commenters suggested using the 100-fathom shelf break as the boundary between high- and low-bycatch-risk areas instead of a straight line.

Response: Based on public comments and additional analyses, NMFS reconsidered the boundaries of the Charleston Bump Spatial Management Area and designed a new sub-alternative (Sub-Alternative A2f) that is a combination of several of the other sub-alternatives considered. Since effort is unlikely to increase and because any fishing in the newly designated monitoring area would be closely regulated with enhanced monitoring and reporting requirements to support data collection, adoption of Sub-Alternative A2f is likely to have neutral direct and indirect ecological impacts. This now preferred sub-alternative moves the eastern boundary of the high-bycatch-risk area, relative to the current Charleston Bump closed area, westward, inside of the 100-fathom shelf break, to a diagonal line 45 nmi from shore for the majority of its length. The western boundary of this management area remains the same as the current western boundary of Charleston Bump closed area. The area inshore of the boundary is designated a high-bycatch-risk area and offshore of that boundary is designated a low-bycatch-risk/monitoring area. The temporal extent of both the high-bycatch-risk area and low-bycatch-risk area would be February 1 through April 30, which is the same time period as under the no action sub-alternative. Sub-Alternative A2f should not unduly limit fishing access, should reduce the potential for unintended limitations to fishing,

including for species managed under other FMPs' regulations, and is expected to encourage data collection by providing access to desired fishing grounds within the monitoring area. Since Preferred Sub-Alternative A2f does not change the February 1 through April 30 timing of the Charleston Bump Spatial Management Area (whereas year-round timing had been proposed in DEIS preferred Sub-Alternative A2c), there will no longer be a reduction in fishing access and fishermen operating in the area will no longer experience negative economic impacts, nor will there be a need to travel further to access normal fishing grounds, alleviating safety-at-sea concerns expressed by the commenter. Furthermore, to the extent that fishermen are interested in fishing in the monitoring area, there could be fishing opportunities closer to shore, which would reduce transit times when traveling to and from fishing grounds. Such a reduction in transit times could reduce fuel costs and provide fishermen with more flexibility to fish in areas and at times when ocean conditions are more favorable. Note that with these changes to the proposed Charleston Bump Spatial Management Area and East Florida Coast Spatial Management Area (described below), NMFS will no longer create a single high-bycatch-risk area along the coast, which was called the South Atlantic Pelagic Longline Restricted Area in the Draft Amendment and proposed rule. However, the northern boundary of the East Florida Coast high-bycatch-risk area and the southern boundary of the Charleston Bump high-bycatch-risk area continue to connect with the same eastern and western boundary points.

Comment 16: One commenter suggested that the Charleston Bump closed area should be opened to all pelagic longline vessels and should only reclose if there is too much bycatch or other conditions prompt a closure.

Response: NMFS disagrees that it is appropriate to reopen the entire area without further data collection. Amendment 15 provides a conservation-oriented, risk-appropriate approach for data collection for all four of the areas it considered, including the

Charleston Bump Spatial Management Area. The preferred measures will guide data collection efforts while also providing the ability to make modifications if there are indications that conservation needs are being jeopardized or indications that restrictions could be further reduced.

Comment 17: NMFS received a comment from the SCDNR suggesting additional analyses for the Charleston Bump comparing the catch per unit effort (CPUE) for target and bycatch among the different areas (high-bycatch-risk area, low-bycatch-risk area, and areas outside the closed area).

Response: The CPUEs of target species and bycatch for each spatial management area, not just the Charleston Bump, are listed in Chapter 5 of the Amendment. Comparisons across the reference areas are also provided in Chapter 5 of the Amendment. As NMFS collects additional data in portions of the closed areas, there will be more data on which to base CPUE estimates.

Comment 18: One commenter noted that the Draft Amendment stated that the scope of the Charleston Bump closed area would increase by 122 percent, but they were concerned that any increase in protection would not apply to blue marlin. After issuance of the FEIS, NMFS received a comment expressing concern about the final, preferred alternative reducing the scope of the high-bycatch-risk area by 68 percent relative to the current Charleston Bump closed area.

Response: As explained in Section 5.1.2.7 of Amendment 15, NMFS uses metrics and scope to compare the relative impacts of the spatial management area sub-alternatives. *See* Terminology before Chapter 1 and Chapter 2 (explaining development of sub-alternatives using PRiSM). The metric scores and scopes do not address or speak to the broader regime of conservation and management measures – beyond spatial management areas – under the Consolidated HMS FMP and its amendments and implementing regulations. *See* response to Comment 8 (summarizing billfish measures

beyond closed areas). In the Draft Amendment, scope values were only included for high-bycatch-risk areas. As discussed in Chapter 2, low-bycatch-risk areas have low probabilities of fisheries interactions with bycatch species modeled through PRiSM. For information purposes, though, NMFS decided to numerically illustrate scope values for low-bycatch-risk areas in Amendment 15. In Section 3.4.2 of the Draft Amendment, NMFS described that no areas (high-bycatch-risk or low-bycatch-risk areas) within the current Charleston Bump closed area would be fully opened to normal commercial fishing. Various restrictions and monitoring requirements would apply for low-bycatch-risk areas.

Regarding blue marlin, preferred Sub-Alternative A2f has the same metric score of 0 for billfish as the no action Sub-Alternative A2a and is expected to have neutral indirect ecological impacts on billfish and other modeled bycatch species. While Sub-Alternative A2c in the Draft Amendment 15 had a higher metric score of 5 for billfish, we note that billfish metric scores for all the sub-alternatives was low (ranging from 0 to 5) compared to the highest possible score of 48. *See* Section 5.1.2.7 (providing table of metric scores and scopes for the sub-alternatives). As stated in the response to Comment 8, the goal of Amendment 15 is to collect data on the effectiveness of existing closed areas and improve the data available for making HMS spatial management decisions, while continuing to minimize bycatch for multiple species. The final preferred alternatives for each of the spatial monitoring areas, including Charleston Bump, will allow for such data collection in a manner that is unlikely to increase blue marlin (or other species) bycatch. Data collection by pelagic longline vessels choosing to fish within in the preferred monitoring areas will likely improve our understanding of the contribution of closed areas to reducing blue marlin fishing mortality and provide NMFS with the ability to assess any impacts, positive or negative, that closed areas may have on blue marlin rebuilding. If the data indicates that additional conservation and management

measures may be necessary for blue marlin, NMFS will evaluate all sources of mortality in commercial and recreational fisheries and address them in a future action.

East Florida Coast Spatial Management Area

Comment 19: NMFS received comments concerned that the proposed East Florida Coast Monitoring Area did not include the western edge of the Gulf Stream along the 100-fathom shelf break where fishing often results in high target catch CPUEs and low bycatch rates. Similar to the comments received regarding the 100-fathom shelf break and the Charleston Bump, these commenters noted the importance of that shelf break to the fishing industry. These commenters suggested preferring a different modification sub-alternative or combination of sub-alternatives to allow for some data collection along the 100-fathom shelf break, particularly in the winter months when target fish are larger, bycatch is lower, and the area is closer to shore during bad weather. Some commenters stated that the southern boundary of the monitoring area could be moved north to around Ponce Inlet to reduce gear conflict with other fisheries.

Response: Based on public comments and additional analyses, NMFS reconsidered the boundaries of the East Florida Coast Monitoring Area and designed a new sub-alternative (Sub-Alternative A3f) that is a combination of several of the other sub-alternatives considered. Since effort is unlikely to increase and because any fishing in the newly designated monitoring area will be closely regulated by enhanced monitoring and reporting requirements to support data collection, adoption of Sub-Alternative A3f is likely to have short- and long-term moderate beneficial indirect impacts to modeled species as evidenced by the higher overall metric score. This sub-alternative will move the eastern boundary of the high-bycatch-risk area, relative to the current East Florida Coast closed area, westward, to a diagonal line beginning inside of the 100-fathom shelf break in the north, extending southeast to a point at the eastern edge of the current closure around Sebastian, Florida. The area inshore of the boundary will be designated a high-

bycatch-risk area and offshore of that boundary will be designated a low-bycatch-risk/monitoring area. This sub-alternative will not extend the monitoring area south of Sebastian Inlet, FL, where fishing gear conflict is more of a concern as multiple fisheries are operating in the same area and Federal waters, for purposes of fisheries management, are narrower due to the Exclusive Economic Zone (EEZ) boundary between the United States and the Bahamas. Note that with the changes to the preferred Charleston Bump and East Florida Coast Spatial Management Areas, NMFS is also no longer creating a single high-bycatch-risk area along the coast that would include the East Florida Coast high-bycatch-risk area (called the South Atlantic Pelagic Longline Restricted Area in the Draft Amendment and proposed rule). However, the northern boundary of the East Florida Coast high-bycatch-risk area and the southern boundary of the Charleston Bump high-bycatch-risk area continue to connect with the same eastern and western boundary points.

Comment 20: NMFS received several comments from the FWC in opposition to the East Florida Coast preferred sub-alternative in the Draft Amendment asserting that that alternative would not achieve objectives 1, 2, and 4 of Amendment 15. Specifically, the comments stated that the small increase in revenue from reopening the offshore portion of the East Florida Coast would not have significant impact on the future success of the pelagic longline fishery, but reopening the area to pelagic longline is likely to have large negative impacts on HMS and non-HMS bycatch species. After issuance of the FEIS, NMFS received comments from the FWC and other groups expressing concern about the final, preferred alternative expanding the monitoring area to 41 percent (up from 26 percent in the proposed rule) of the current East Florida Coast closed area and the potential for high levels of bycatch and impacts to protected resources caught in pelagic longline gear. In their original comments on the Draft Amendment and proposed rule, the FWC also commented that the East Florida Coast Spatial Management Area is

located in EFH for many HMS species that are either overfished and/or experiencing overfishing. Their comment further noted that the East Florida Coast Spatial Management Area is within federally-designated critical habitat for loggerhead sea turtles. The comment also stated that allowing use of pelagic longline in this area would likely increase bycatch and bycatch mortality of these species, counter to Amendment 15 Objective 1. The comment asserted that the creation of the South Atlantic Pelagic Longline Restricted Area would not ease confusion or aid in enforcement since the Charleston Bump and East Florida Coast areas are well-known and that combining the areas would actually cause confusion.

Response: NMFS disagrees that Amendment 15 would not achieve Objectives 1, 2, and 4, which are: (1) using spatial management tools, minimize bycatch and bycatch mortality, to the extent practicable, while also optimizing fishing opportunities for U.S. fishing vessels; (2) develop methods of collecting target and non-target species occurrence and catch rate data from HMS spatial management areas for the purpose of assessing spatial management area performance; and (4) evaluate the effectiveness of existing HMS spatial management areas and, if warranted, modify them to achieve an optimal balance of ecological, social, and economic benefits and costs. No negative impacts on target and non-target species are anticipated from Sub-Alternative A3f since data collection-related fishing activities would be allowed only within low-bycatch-risk/monitoring areas within the East Florida Coast and Charleston Bump Spatial Management Areas with strict effort controls and enhanced reporting and monitoring. Furthermore, pelagic longline effort is unlikely to increase and, if current trends continue, may decrease, thus likely limiting negative impacts to target and non-target species. As described in all three of those objectives, the purpose of Amendment 15 is to collect data necessary to better characterize the impact of closed areas on target and non-target

species. With this data, NMFS can assess the performance of closed areas in meeting conservation and management goals, consistent with the objectives of Amendment 15.

The preferred alternative in Final Amendment 15 for the East Florida Coast Spatial Management Area, Sub-Alternative A3f, increases the scope of the low-bycatch-risk area to 41 percent of the existing area. *See* Amendment 15 at Section 3.1.3 (providing table comparing scopes of A3 sub-alternatives). This area has low probabilities of fisheries interactions with bycatch species modeled through PRiSM. Moreover, metric scores across all six of the A3 Sub-Alternatives are similar: leatherback sea turtles ranged from 21-23 (compared to the highest possible score of 48), shortfin mako shark ranged from 12-18, and billfish species ranged from 6-10. *See* Section 5.1.3.7 in Amendment 15 (providing table comparing metric scores). As explained above in the response to Comment 8, Sub-Alternative A3f has a lower metric score (6) for billfish species in comparison to the no action alternative (10) and Sub-Alternative A3b (10), but the metric scores for all of the sub-alternatives are low for billfish, and metric scores and scopes do not speak to the broader regime of conservation and management measures in effect. Response to Comment 8 summarizes existing measures for billfish and also the conditions and restrictions applicable to the low-bycatch-risk/ monitoring area. Given the above and other considerations, Sub-Alternative A3f is expected to have neutral ecological impacts on target species and generally moderate beneficial indirect impacts for bycatch species modeled by PRiSM. *See* Sections 5.1.3.6 and 5.4.3 of Amendment 15 for further explanation of impacts of the sub-alternative.

Per the 2020 Biological Opinions, the HMS pelagic longline fishery is not likely to cause an appreciable reduction in the likelihood of either the survival or recovery or to jeopardize the continued existence of the loggerhead sea turtle. Additionally, after inter-office discussions between the Atlantic HMS Division and the Southeast Regional Office's Protected Resources Division, NMFS determined that the preferred measures in

Amendment 15 finalized through this final rule will not affect ESA-listed species or their critical habitat in a manner or to an extent beyond those effects considered in the 2020 Biological Opinions. The EFH for relevant HMS with an overfished or experiencing overfishing status extends far beyond the boundaries of the existing closed areas into areas where normal commercial fishing is allowed; there is no inherent link between the presence of EFH and closed areas. *See* Amendment 15 Sections 4.1 (describing HMS managed species and habitat) and 4.1.1 (providing information on HMS EFH and FMP amendments). Amendment 10 to the HMS FMP found that since most HMS reside in the upper part of the water column and habitat preferences are likely influenced by oceanic factors such as current confluences, temperature edges, and surface structure, most HMS gears do not pose any adverse effects on HMS EFH. For overfished stocks or stocks experiencing overfishing, NMFS utilizes a broad range of tools, beyond closed areas, notably rebuilding plans for overfished stocks and annual catch limits and accountability measures to prevent overfishing. *See* Amendment 15 Chapter 9.1.1 (providing references to relevant FMP amendments under NS1 discussion). Amendment 15 does not modify such measures and is not expected to affect efforts to prevent overfishing and rebuild overfished stocks. Chapter 5 provides detailed ecological impact analyses for all of the alternatives and sub-alternatives considered in Amendment 15. Regarding the proposed South Atlantic Pelagic Longline Restricted Area, with the preferred changes to the Charleston Bump and East Florida Coast Spatial Management Areas, NMFS is also no longer creating a South Atlantic Pelagic Longline Restricted Area. However, the northern boundary of the East Florida Coast high-bycatch-risk area and the southern boundary of the Charleston Bump high-bycatch-risk area continue to connect with the same eastern and western boundary points.

NMFS notes that vessels choosing to fish in the designated monitoring areas under Amendment 15 may gain revenue depending on the catch rates in the specific

portions of the monitoring area they fish in. However, revenue increases as a result of that fishing are not a primary objective. Rather, an important objective is the data collection that results from that fishing in order to assess the performance of overall spatial management areas; as discussed in Section 3.2.3 of Amendment 15, controlled fishing activity in the monitoring area is an effective way to get the data needed to assess the spatial management areas. In the case of the East Florida Coast Spatial Management Area, the preferred modification sub-alternative, Sub-Alternative A3f, is not expected to provide much additional revenue for vessels that choose to fish in the relevant monitoring area. Due to the calculated decrease in tuna catch, Sub-Alternative A3f is estimated to result in -\$10,453 total revenue fishery-wide compared to the no action sub-alternative. However, fishermen are unlikely to fish in portions of the areas with lower catch rates, so reductions in revenue may not be realized. Revenue estimates used a single calculated CPUE across the entire monitoring area because catch rates are not available in areas that are currently closed to fishing. In reality, CPUEs likely differ across the area with, for example, higher CPUEs near important bathymetric features. Thus, vessels fishing in the monitoring area and thereby supporting data collection due to the relevant requirements would likely fish in portions of the monitoring area with a profitable CPUE and avoid those portions with a lower CPUE.

DeSoto Canyon Spatial Management Area

Comment 21: NMFS received comments about the proposed DeSoto Canyon Spatial Management Area modification sub-alternative (Sub-Alternative A4d). Some commenters stated that access for pelagic longlines in the southern half of the southern box of the current closure would allow fishermen to target larger swordfish in the loop current. Other commenters stated that new closures in the areas between the two boxes would significantly limit productive fishing grounds and that access to portions of the southern box was not worth the trade-off. Some commenters requested shifting the

proposed southern boundary of the DeSoto Canyon high-bycatch-risk area further north to allow for additional pelagic longline access.

Both the Gulf Fishery Management Council (GFMC) and the FWC requested more information about how the proposed sub-alternative would affect species, including king mackerel and cobia, that are managed under other FMPs.

The FWC commented that they do not support the DeSoto Canyon proposed sub-alternative because it would allow increased pelagic longline effort in areas that are currently closed. The FWC asserted, similar to their comment regarding the East Florida Coast sub-alternative (see Comment 20 above), that the areas that would be opened include EFH for some HMS, many of which are overfished, experiencing overfishing, and/or prohibited.

The FWC cautioned that the proposed DeSoto Canyon Spatial Management Area modification would negatively affect many HMS and non-HMS tournaments which are important economic drivers in coastal communities.

The Environmental Protection Agency, noting the possible adverse economic impact of the DeSoto Canyon spatial management area modification in the Draft Amendment 15, commented that additional analyses should be done to determine how the reduction in revenue, if realized, would affect fishermen and to identify potential mitigation strategies for the loss of income.

Response: In Amendment 15, NMFS is preferring no action (Sub-Alternative A4a) for the DeSoto Canyon Spatial Management Area, instead of the Sub-Alternative A4d, which was preferred in the Draft Amendment. NMFS made this change in response to public comments and other considerations, including the proposed rule for designation of Rice's whale critical habitat. NMFS issued a proposed rule regarding the critical habitat designation for Rice's whale (88 FR 47453, July 24, 2023), and the proposed critical habitat extends across the DeSoto Canyon Spatial Management Area. NMFS may

revisit potential changes to the DeSoto Canyon area after finalization of the designation of critical habitat. Because NMFS now prefers the no action modification sub-alternative for the DeSoto Canyon Spatial Management Area, there will be no impacts to current pelagic longline fishing opportunities, other HMS fisheries including offshore recreational tournaments, or species managed under other FMPs' regulations. Nevertheless, see response to Comment 20 addressing EFH and describing measures other than closed areas for species that are overfished and experiencing overfishing.

Comment 22: The GFMC also asked if the proposed sub-alternative would overlap with the closures of Madison-Swanson, Steamboat Lumps, and the Edges.

Response: Preferred Sub-Alternative A4a will not affect or overlap Madison-Swanson, Steamboat Lumps, or the Edges 40 Fathom Contour closed areas in the Gulf of America. All three of these areas prohibit all HMS fishing, except surface trolling in Madison-Swanson and Steamboat Lumps from May through October, and lie wholly outside of the area under Sub-Alternative A4a. Madison-Swanson and Steamboat Lumps were originally established to protect Gulf reef fish in 2000 with a four year expiration date, though they were permanently implemented on May 2, 2004 (69 FR 24532). Edges 50 Fathom Contour closed area was implemented on June 24, 2009 (74 FR 30001). After considering a request from the GFMC, NMFS implemented compatible regulations for HMS fisheries in the three areas (74 FR 66585, December 16, 2009). Since then, all fishing managed under Gulf FMPs has been prohibited in these three areas, including surface trolling, and the GFMC has requested NMFS to consider compatible regulations for HMS fisheries to prohibit surface trolling. The Agency may consider the request after Amendment 15 (which includes, under the "E" alternatives as described below, criteria to consider when reviewing spatial management areas) is finalized.

Comment 23: The FWC disagreed with the assertion in the Draft Amendment that the proposed DeSoto Canyon Spatial Management Area modification would achieve Amendment 15 objectives 1, 2, and 4.

Response: Although NMFS is finalizing the no action modification sub-alternative for the DeSoto Canyon Spatial Management Area, progress will still be made in meeting objectives 1, 2, and 4 (see response to Comment 20 for the objectives). In the DeSoto Canyon area, the entire footprint of the spatial management area will be designated a high-bycatch-risk area, and NMFS is finalizing data collection Alternative B4 regarding cooperative research via an EFP. EFPs are a mechanism used by NMFS to allow highly controlled and monitored fishing activities that would otherwise be prohibited. EFPs are therefore useful for conducting research and collecting data in a very precautionary manner. Conducting research and data collection in spatial management areas under an EFP may be especially useful in areas of higher ecological concern, including those areas designated by PRiSM as high-bycatch-risk areas. Such data could assist NMFS in ensuring the DeSoto Canyon Spatial Management Area is meeting conservation and management goals, consistent with the objectives of Amendment 15.

Data Collection Alternatives (“B” Alternatives)

Comment 24: Several commenters, including the SCDNR and the NCDMF, stated that the calculated effort caps in the proposed monitoring areas are too low to collect adequate data to inform an assessment of the area. Some commenters stated that most of the sets would be made in a short period of time providing limited information over the duration of the monitoring area timing. Furthermore, once the effort cap is close to being reached, fishermen would be unlikely to embark on additional data collection trips to avoid broken trips (*i.e.*, the effort cap is reached on the way to the fishing grounds or while fishing), reducing the effective size of the effort cap. The SCDNR stated that the effort cap calculation is slightly flawed and offered two suggestions for a more

appropriate effort cap calculation: (1) an average of monthly sets in the monitoring area during open times could be applied to the monitoring area or (2) the reference area in the current calculation could exclude areas that are not fished, including the closed areas within the reference area. The FWC commented that effort caps should not be calculated based on the ratio of monitoring area to reference area and instead should be based on an analysis determining minimum sample size to meet program goals. After issuance of the FEIS, NMFS received a comment requesting an explanation about the final, preferred alternative to expand the effort cap for the Charleston Bump and East Florida Coast monitoring areas.

Response: Based in part on public comments and through inter-office coordination within NMFS, including with the SEFSC, NMFS refined the effort cap calculations. For the Charleston Bump, we used fishing effort data from January and May, the months surrounding the time when the spatial management area has been closed (February through April). For the East Florida Coast, similar data are not available given that the area has been closed year-round for over 20 years. As such, we modified the proposed calculations so that the reference area included only areas open for fishing. See Sections 3.2.3.1 and 5.2.3.1 of the Final Amendment for details and explanations on effort cap calculations. NMFS considered sample size analyses similar to that suggested by the SCDNR but determined that they were not feasible. In consultation with the SEFSC, it was determined that without fishery-dependent data from the areas, it is not possible to calculate minimum sample size of effort caps *a priori* at a sufficient level to characterize the fishery. Once some data is collected, NMFS can consider whether adjustments to effort caps are warranted. Under the preferred alternative, NMFS will use effort caps (Sub-Alternative B3a) in combination with real-time reporting (Alternative B3 and Sub-Alternatives B3a and B3e) to allow for real-time monitoring of bycatch. As a special access area, monitoring areas could be closed early and/or not reopened if

conditions warrant, and real-time bycatch monitoring will provide critical data to inform such decisions. The revised calculations, described above, resulted in higher effort caps than what was proposed. For the Charleston Bump monitoring area, the effort caps increased from a proposed 69 sets (February 1 through April 30/each year) to 380 sets (same time period). For the East Florida Coast monitoring area, the effort caps increased from a proposed 124 sets per year to 250 sets per year. Additionally, we have modified the preferred alternative to provide that, through separate rulemaking, NMFS may consider apportioning effort caps across different time frames (*e.g.*, quarterly or monthly) to ensure enough data to assess the areas throughout the time frame of the relevant spatial area is collected. *See* Section 5.2.3.1 in Amendment 15 for further explanation. The ecological impacts of the changes in effort caps levels in monitoring areas are likely to be neutral because of the conditions and restrictions associated with the monitoring areas and the fact that the spatial and temporal aspects of the monitoring areas are specified locations and times for which the risk of interactions with the PRiSM-modeled bycatch species are relatively low. *See* Section 5.2.3 and 5.2.6 in Amendment 15 for more information on the ecological impacts of effort caps in monitoring areas.

Comment 25: NMFS received a comment that effort caps (Sub-Alternative B3a) should not be implemented in the monitoring areas and that more direct bycatch controls such as bycatch caps (in other words, a bycatch threshold level for closing the monitoring area) (Sub-Alternative B3b) or per-trip set limits (Sub-Alternative B3c) should be used instead. Bycatch caps in particular would more closely match those of the Northeastern United States Pelagic Longline Monitoring Area and the Spring Gulf of America Pelagic Longline Monitoring Area. After issuance of the FEIS, NMFS received a comment expressing concerns that the FEIS did not include bycatch caps or threshold levels that would trigger closure of the monitoring areas.

Response: NMFS disagrees. While bycatch caps worked for the Northeastern United States Pelagic Longline Monitoring Area and the Spring Gulf of America Pelagic Longline Monitoring Area, bycatch caps would not work for preferred monitoring areas that would be established under Amendment 15 for a number of practical reasons. First, interactions between the pelagic longline fishery and bycatch species are relatively rare events in comparison to interactions with target species, and the rate of interactions varies. The uncertainty regarding the likelihood of interactions with various species makes it difficult to select which species should have bycatch caps and to determine the appropriate level of each bycatch cap. As more species are included, as is the case in these monitoring areas, the complexity and difficulty of monitoring and administering bycatch caps increases. Second, the calculated bycatch caps for some species are so small as to not be practical. For example, the calculated bycatch cap for some species, such as longbill spearfish, would be one fish in some areas. It is likely that species would not be encountered for multiple years, but in the instance where it was, the area would close contrary to the goals of Amendment 15. In other words, such a small bycatch cap would be difficult to enforce even with the enhanced rate of EM monitoring in the monitoring areas under this action and would not provide flexibility for rare events. In a situation where there are bycatch caps for several species, and the catch of any of the caps would result in terminating access to the area, the smallest cap would function as the default cap. Third, although VMS reporting of catch is relatively quick, other reporting methods that may need to be used to corroborate VMS reports have a longer time frame. Data from logbooks, observer reports, or electronic monitoring systems are not available until well after the trip has been completed. Given that there may be incentives to underreport bycatch, corroboration of VMS data may be required to provide a full accounting of bycatch events. If there is a time delay between the catch events and full accounting for bycatch, the effectiveness of a specific numerical bycatch cap at actually limiting catch

would be reduced. If attainment of a bycatch cap were to result in closing access to the monitoring area, highly mobile species may no longer be in the area by the time the monitoring area is closed. While the above issues were also considered when developing the Northeastern United States Pelagic Longline Monitoring Area and the Spring Gulf of America Pelagic Longline Monitoring Area, in those areas, NMFS was primarily concerned with one species, bluefin tuna. Because of the single-species application of the stringent reporting requirements for fishermen and dealers regarding bluefin tuna compared to other pelagic longline catch, bycatch caps (called incidental catch limits in the case of bluefin tuna) were a reasonable option at that time. With the breadth of species that need to be monitored in the areas under consideration in Amendment 15 and the small bycatch caps for some species, bycatch caps are not practicable at this time.

Trip-level effort controls in monitoring areas (*i.e.*, limiting the number of hooks and sets an individual vessel operator may take in a monitoring area), as with bycatch caps, would also be impracticable at this time. While the trip-level effort controls would likely be set at a level near the average number of hooks per set and sets per trip, NMFS found that these limits could still result in data collection that does not match normal fishing practices. This mismatch could reduce the utility of comparing spatial management catch rates and composition with those that occur outside the area. Trip-level effort controls also do not limit total effort; rather, they slow the rate of effort, and they may limit target catch, contrary to the intention of Amendment 15. Regarding the FEIS comment, NMFS emphasizes that the use of effort caps in combination with VMS reporting still provides NMFS the ability to monitor bycatch in near real-time. As stated in Amendment 15, as a special access area, monitoring areas could be closed early, even before relevant effort caps are reached and even without a numerical bycatch cap, if warranted by conservation and management needs such as unexpectedly high bycatch. The various reporting requirements associated with the monitoring areas will provide

critical data to inform such early closure decisions, as well as potential decisions to not reopen the monitoring areas, or modify their effective time periods, in following years. Further, as described in Amendment 15, the preferred E alternative, in conjunction with the preferred C alternatives, provides for NMFS to further modify of the spatial management areas as needed based on ongoing review of bycatch levels through the data that comes out from the monitoring areas.

Comment 26: NMFS received comments supporting the use of cooperative EFP research in high- and low-bycatch-risk areas to collect data for analysis.

Response: NMFS agrees that EFPs provide opportunities for high quality data collection while ensuring conservation goals are met. NMFS is finalizing Alternative B4, which would allow for EFP research in high- and low-bycatch-risk areas of Charleston Bump and East Florida Coast Spatial Management Areas and the entirety of the high-bycatch-risk DeSoto Canyon Spatial Management Area. Alternative B4 sets forth elements for such EFPs, including effort caps, bycatch caps, a study plan, and observer or EM coverage. To be considered covered under and consistent with the Amendment 15 impacts analyses for Alternative B4, an EFP application should incorporate these elements. This final rule also continues the shark research fishery and issuance of shark research permits (Alternative B1) and allows EFPs and SRPs for the Mid-Atlantic Shark Spatial Management Area.

Comment 27: NMFS received comments that NMFS would not be able to issue cooperative research EFPs (Alternative B4) in high-bycatch-risk areas since they have been unable to issue EFPs for closed area research in the past.

Response: NMFS disagrees. As described in Chapters 1 and 4 of the Amendment, from 2008 through 2010, NMFS approved a research project that collected data in the East Florida Coast closed area from three vessels over three years (73 FR 450, January 3, 2008). In 2017 NMFS approved another research project for that area (82 FR 37566,

August 11, 2017), but that research did not occur. Additionally, NMFS regularly issues shark research fishery permits, which are a type of cooperative research EFP, for research in the Mid-Atlantic Shark closed area. As stated in the Amendment and in preferring Alternative B4, NMFS is willing to consider applications for and issuance of EFPs and SRPs that meet the appropriate requirements for research in closed areas.

Comment 28: NMFS received comments stating that closed area EFP research should employ proper experimental design and be subject to robust scientific review to ensure projects provide useful results.

Response: NMFS agrees. Under preferred Alternative B4, NMFS will accept EFP applications to perform gear-specific research in a spatial management area to gather data that would be useful in assessing spatial management areas. The current application and reporting forms would not change and applicants would use the same procedure for application submission. However, consistent with Amendment 15, applicants would be informed that, in order to be considered covered under and consistent with the FEIS impacts analyses, an EFP application should incorporate elements set forth in Alternative B4 (*i.e.*, effort caps, bycatch caps, *etc.*). These elements ensure research activities do not jeopardize conservation goals or result in excessive gear conflicts with other user groups. As with the current EFP program, submission of an application would not guarantee approval. Instead, each application would be considered independently and in the context of Agency objectives and other research applications.

Comment 29: NMFS received comments, including from the FWC, asserting that the proposed cooperative EFP data collection alternative circumvents the established public review and comment process for EFPs, reducing transparency. The FWC commented in opposition of reopening any formerly closed areas for pelagic longline harvest for the purpose of data collection, stating that the fishery-dependent data that would be collected under the EFP program would not provide sufficient data to assess the

performance of spatial management areas given the effort caps. The FWC also commented that previous EFP research in closed areas has been insufficient to inform spatial management area performance. The FWC also stated that there has not been an adequate NEPA review of impacts to streamlining the EFP process as provided in the proposed rule. After issuance of the FEIS, NMFS received a comment reiterating concerns that preferred Alternative B4 reduces public transparency and scrutiny of EFP proposals in spatial management areas.

Response: NMFS disagrees that the proposed cooperative EFP data collection alternative circumvents the established public review and comment process for EFPs. The preferred cooperative EFP data collection alternative (Alternative B4) will follow the established public review and comment process that applies to all HMS EFPs under regulations at 50 CFR 600.745 and 635.32. NMFS publishes a notice of intent to issue EFPs and similar permits for research annually with opportunity for public comment. This annual notice is general and provides information on the types of EFP applications NMFS expects to receive (*e.g.*, tagging of HMS, capture of HMS for public display, collection of biological samples). The HMS FMP and its amendments anticipate and include analyses for routine EFPs. For example, some EFPs request exemptions from specific regulations but result in catch within established quotas. Ecological, economic and social impacts of the quotas were addressed in the HMS FMP and its amendments and the associated NEPA analyses. If NMFS receives EFP applications that are consistent with the analyses in Amendment 15 but are known to be controversial or sensitive in nature, due in part to public comment on the annual notice, NMFS may provide an opportunity for additional public comment on that specific EFP application. However, if the EFP requires consideration and analyses beyond what has already been reviewed by the public in the HMS FMP and its amendments (including Amendment 15), NMFS will conduct those analyses and provide an opportunity for public comment. These are the

same steps NMFS takes for every EFP application and are the steps that would be used for the EFPs discussed above in the response to Comment 27. The preferred Alternative B4 will facilitate the consideration of research and data collection EFPs in spatial management areas by standardizing components that applicants must address in their applications. However, the EFP regulations at 50 CFR 600.745 and 635.32, including the requirements related to public review and comment, still apply. Note that, while Amendment 15 refers to EFPs under the preferred Alternative B4, as discussed in Comment 3, such activities also include those permitted through EFPs and SRPs, which are issued for similar activities. NMFS generally issues an EFP when the research activity is conducted on a recreational and/or commercial fishing vessel and issues an SRP when the research is conducted on a scientific research vessel. See 50 CFR 635.32(b)(SRPs) and 600.10 (defining scientific research activity, scientific research vessel, and related terms).

Comment 30: Several comments were submitted about using monitoring areas to collect data within existing closed areas. NMFS received comments stating that modifications to spatial management areas should be accompanied by enhanced monitoring and data collection. Commenters stated that monitoring areas should be implemented in any newly-opened areas with 100-percent EM coverage, effort caps, bycatch caps, and trip-level effort controls to reduce the potential for negative conservation impacts. One commenter stated that Sub-Alternatives B3d (100-percent observer coverage in monitoring area) and B3e (100-percent EM in monitoring areas) would be important to collect timely, high-quality data. After issuance of the FEIS, NMFS received a comment requesting justification on the final, preferred alternative to implement a 50-percent video review rate in monitoring areas.

Response: NMFS agrees that monitoring areas provide an opportunity for data collection within currently closed areas while ensuring management and conservation

goals are not jeopardized. NMFS also agrees that enhanced monitoring ensures conservation and management goals are not compromised and provides opportunities for enhanced data collection. NMFS is using the term “monitoring area” to describe spatial management areas that allow commercial fishing and have associated restrictions that result in a relatively high level of information and precautionary management. Under the preferred alternatives, monitoring areas would be designated within low-bycatch-risk areas (*i.e.*, areas with low fisheries interactions with bycatch species modeled using PRiSM) of the Charleston Bump and East Florida Coast Spatial Management Areas (Sub-Alternatives A2f and A3f). Commercial pelagic longline vessels who choose to fish inside the monitoring areas will be permitted to do so, subject to certain conditions and other applicable regulations. The purpose of a monitoring area is to collect data from within the spatial management area and provide fishing opportunities consistent with the objectives of the spatial management area. More specifically, access to the area is intended to provide data on the costs and benefits of the spatial management area and the status of achievement of relevant objectives. To the extent practicable, the monitoring area would allow commercial fishing gear and practices similar to that employed outside the area, in order to be comparable to fishing using routine practices. Because fishing has not occurred in the monitoring area during the closure months, there is uncertainty regarding the type and level of bycatch that may occur if normal commercial fishing were to occur there. Therefore, fishing in the monitoring area will be subject to conditions and restrictions to ensure that bycatch and bycatch mortality is minimized to the extent practicable and incidental catch is monitored and managed. Various tools to ensure that the monitoring area meets its objective will be implemented, including enhanced EM video review and effort caps.

In the Draft Amendment, the preferred alternative provided for video data from 100 percent of sets to be reviewed, as this would provide the most detailed level of

information and the cost of video review (\$1,680 per vessel for a typical ten day trip/six sets) was not expected to deter interest in fishing. However, as described in Comment 31 below, NMFS received a number of comments that indicated that because of costs, fishermen would not fish in the monitoring areas if they had to pay for 100 percent of the EM video review. After considering public comment and consistent with the goal of data collection, NMFS is lowering the EM video review rate in the monitoring areas to 50 percent to ensure that conservation and management objectives in Amendment 15 are met. Under the revised Sub-Alternative B3e, NMFS anticipates that some vessels will choose to fish in the monitoring areas, and the 50-percent video review rate will provide detailed information on bycatch and incentivize accurate bycatch reporting by fishermen. Before deploying sets in a monitoring area, vessel owners and/or operators will be required to indicate their intention to do so during the pre-trip or in-trip VMS hail-out. The agency has the authority to further restrict or end access to the monitoring areas for those vessels if warranted by conservation and management concerns raised by unexpectedly high bycatch, high data collection efforts, fishing effort that is overly clustered temporally or spatially, or other relevant considerations. Based on these concerns, access to the monitoring areas could be prohibited during its effective time period in a given calendar year, and the Agency could choose to keep the area closed during its effective time period in the following calendar year as well if the concerns still exist. Final Sub-Alternative B3e (the establishment of monitoring areas with EM and 50-percent video review) is expected to have neutral short-term and minor beneficial long-term ecological impacts for bycatch and incidentally caught species. This is because of the conditions and restrictions also associated with the monitoring areas (effort caps under preferred Sub-Alternative B3a and cooperative research via exempted fishing permit under preferred Alternative B4) and the fact that monitoring areas are specified locations and times for which the risk of interactions with the PRiSM-modeled bycatch

species are relatively low. See Ecological Impacts in Section 5.2.3 of Amendment 15 for other ecological impacts; Section 5.1 of Amendment 15 for detailed analyses of ecological, economic and social impacts of spatial management areas; and Section 2.5 of Amendment 15 for explanation of identification of high-bycatch-risk areas.

Comment 31: The SCDNR commented that the requirement to pay for expanded EM review in the Charleston Bump Monitoring Area may dissuade fishermen from collecting data in the area. They suggested looking for ways to decrease the cost through a lower review rate or a combination of observers and EM on a subset of trips. NMFS received a comment that the 100-percent EM video data review requirement in monitoring areas (Sub-Alternative B3e) would be too expensive and would result in low data collection because less fishing would occur. Another commenter noted that, because the costs are unsustainable for smaller operations, Sub-Alternatives B3d (100-percent observer coverage paid by the vessel) and B3e are inconsistent with Executive Order (EO) 13985: Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.

Response: NMFS acknowledges that the requirement for fishermen to pay for expanded EM review if choosing to fish within monitoring areas may dissuade individuals from entering into the East Florida Coast or Charleston Bump monitoring areas. Monitoring areas provide opportunities for voluntary access for vessels to fish in previously closed areas. NMFS believes that owners of vessels choosing to fish in these monitoring areas should pay for the additional review that is required for the benefit of special access. As described above in Comment 33, NMFS has lowered the EM video review rate in the monitoring areas to 50 percent to ensure that conservation and management objectives are met. Monitoring areas are special access areas, wholly located within currently closed areas. Any fishing that would occur there is different from the fishing practices of the past 20 years while the spatial management areas were

completely closed to fishing. Those vessels that wish to fish in monitoring areas would need to comply with the applicable requirements. Thus, any vessel owner who does not wish or is not able to incur the costs of enhanced EM video review could avoid such costs by maintaining current fishing practices and locations. On January 20, 2025, EO 13985 was rescinded and succeeded by EO 14151, which renounced the reasoning of EO 13985 and established the current directive against all “equity” actions, initiatives, and programs.

Comment 32: NMFS received a comment suggesting monitoring of shortfin mako shark and leatherback sea turtle bycatch year-round in the Charleston Bump Monitoring Area.

Response: Monitoring shortfin mako shark and leatherback sea turtle bycatch is important. However, NMFS does not agree that those species warrant extending portions of the Charleston Bump Spatial Management Area to year-round monitoring. Fishermen are already required to report catches of these species year-round in logbooks, regardless of where they are caught. They are also required to carry observers (if selected) who collect information on those species. Additionally, vessels must have working EM installed and powered on at all times when fishing to monitor shortfin mako shark disposition in addition to bluefin tuna interactions. As such, there are currently a number of ways for NMFS to collect data on those species in all areas, not just in the Charleston Bump. Additional monitoring is not needed at this time.

Comment 33: NMFS received comments that data collection activities should include backstops to reverse course in the event of unexpected conservation impacts. After issuance of the FEIS, NMFS received a comment stating that the FEIS was unclear in how frequently bycatch in the monitoring areas would be reviewed.

Response: NMFS agrees that there should be backstops in case of unexpected conservation impacts. As discussed in Comments 3 and 25, the preferred alternatives for

all the monitoring areas include ways for NMFS to monitor the data in near real-time via VMS reports and to close the relevant monitoring area in the event of unexpected conservation impacts such as high levels of bycatch (Alternative B3). Additionally, NMFS will review all the data (*e.g.*, logbooks, EM video reports, observer reports) more fully at least every three years (Alternative C2) or sooner if specific concerns such as unexpectedly high bycatch arise (Alternative C4) and could initiate rulemaking to modify the areas if appropriate.

Comment 34: NMFS received a comment that low-bycatch-risk areas should be opened to normal commercial pelagic longline fishing.

Response: NMFS disagrees that the areas should be opened without further data collection and backstops. The Charleston Bump, East Florida Coast, and DeSoto Canyon Spatial Management Areas were closed to reduce bycatch in the pelagic longline fishery over 20 years ago. Since that time, as described in the Amendment, there have been many changes in the environment, the species involved, fishing methods, and regulations. While NMFS developed a predictive spatial modeling tool (PRiSM) to assist in identifying low-bycatch-risk areas, NMFS requires data to confirm the results of the model. As data are collected, the model will be improved. Those improvements to the model will provide information that NMFS will use to inform pelagic longline access in the future. Over time, if the data collected confirm that fishing in the areas would not hinder conservation needs, NMFS could consider reopening the areas. Alternatively, the data could show that the areas continue to remain important in reaching the conservation and management goals of the Magnuson-Stevens Act, and NMFS could modify the areas or keep the areas closed.

Evaluation Timing Alternatives (“C” Alternatives)

Comment 35: Some commenters, including the SCDNR and the Maryland Department of Natural Resources, indicated support for NMFS’s preferred approach of

Alternative C2 to evaluate spatial management areas once three years of data are available.

Response: NMFS agrees. NMFS believes scheduling regular evaluations of spatial management areas would allow for more adaptive management and ensure that the objectives of the monitoring area are met on a continuing basis. Specifying a time for a future evaluation addresses the future status of a spatial management area and reduces uncertainty. An interval of three years between evaluations, which is relatively short, would address potential concerns that spatial management areas would be in place for long periods of time before the costs and benefits are evaluated. The three-year evaluation time interval would be used in combination with triggered evaluation to more frequently assess spatial management areas if conservation concerns arise.

Comment 36: NMFS received a comment that future analyses of spatial management areas should include target-to-bycatch ratio goals in each area to allow for comparison across areas on bycatch impacts.

Response: NMFS acknowledges the recommendation to include target-to-bycatch ratios and will consider this suggestion when evaluating spatial management areas in the future.

The Spatial Model, PRiSM

Comment 37: NMFS received comments that the time series of catch data inputs used in the predictive spatial modeling tool, PRiSM, ends in 2019 and does not incorporate more recent changes in fishing techniques since that time. Specifically, some pelagic longline fishermen have, since 2019, begun deploying deep-set pelagic longline gear in deeper water below the thermocline. Some fishermen report better target catch and reduced bycatch when deploying deep sets, and such changes in catch are not incorporated into the model. Other commenters noted that COVID-related impacts,

particularly landings and fishing effort in 2020, could impact model predictions and impacts assessments.

Response: As explained in Section 2.1 of Amendment 15, PRiSM is a modeling tool that uses fishery observer data and environmental data to make predictions about fishery interactions with modeled bycatch species. NMFS agrees that because this fishing practice is relatively new, few deep-set pelagic longline observer reports were included in the model, and changes in catch composition due to the new fishing technique may not be included. This would be the case even if NMFS used fishery observer data from after 2019 since use of the technique was adopted by only a few fishermen at first, and the use expanded in subsequent years. For pelagic longline, NMFS used observer data that was available when the agency conducted its PRiSM modeling work. NMFS believes that this data from a 20+ year period (1997 through 2019) is appropriate for purposes of predictive modeling in PRiSM and consistent with MSA requirements under NS2. The recent use of deep setting the longline is one of many changes in techniques that has occurred in the fishery since the areas were first closed. These types of changes constitute one of the reasons why Amendment 15 prefers alternatives that would allow for both evaluation of the efficacy of the areas on a regular basis and modification of the areas depending on the results. If vessels that choose to fish in the newly established monitoring areas under Amendment 15 use the deep-set technique, and if the deep-set technique shows lower bycatch, then future analyses of the data from the monitoring areas would likely show lower bycatch rates, and any future management changes would take them into consideration.

COVID-related changes to landings and fishing effort are evident in the data, particularly in 2020. However, those changes are unlikely to affect the analyses in Amendment 15. While PRiSM analyses and predictions used data from 1997 through 2019, impacts analyses for the spatial management area sub-alternatives used more recent

information (including 2020 information) (Chapter 5) on effort, CPUE and catch estimates, in order to inform the agency's understanding of potential economic and social impacts. Even before COVID-related interruptions to the fishery, there was a trend of declining effort. See Section 4.5.3 for more information about pelagic longline effort.

Comment 38: NMFS received comments that PRiSM is complicated, may not be fully understood by the public, and should not be used as the sole scientific basis for management changes. The commenter further stated that predictive spatial models are not usually applied in HMS management, but one was used in Amendment 15 without explanation. After issuance of the FEIS, NMFS received an additional comment further noting that PRiSM should not be used as the sole scientific basis for management changes.

Response: NMFS agrees that spatial modeling is complicated, as are many other statistical analyses and models used for fisheries management (*e.g.*, stock assessments). Although the models in PRiSM are complex, the science behind spatial modeling is not new, nor is its application in fisheries management. For example, NOAA has used similar spatial models including EcoCast in NOAA's West Coast Regional Office and Distribution Mapping and Analysis Portal in NMFS's Office of Science and Technology to identify the distribution of a variety of species, including bycatch species that fishermen should avoid. Additionally, NMFS has used other types of spatial models over the course of decades in order to define EFH or when first establishing the closed areas discussed under Amendment 15. Recognizing that this particular use may be unfamiliar to many, NMFS created a series of additional outreach materials, beyond those typically prepared for management actions, to better inform the public. These materials include a PRiSM manuscript explainer, a detailed spatial management StoryMap, and an additional chapter in the Amendment (Chapter 2). StoryMaps are an interactive, multimedia presentation that uses maps to provide a narrative, often helping to communicate complex

spatial information. See Chapter 2, paragraph 2 for information about communication and outreach about PRiSM for a wide range of audiences, including links to the website explaining PRiSM and the StoryMap website.

PRiSM is not the sole scientific basis for management changes in Amendment 15. As described in Chapter 2 of the Amendment, PRiSM was used as a tool to help define potential options to consider for initial changes to the spatial management areas. As described in Chapter 5 of the Amendment, NMFS used other data and analyses to determine the impacts of the alternatives analyzed and made final decisions after considering potential impacts and public comment. NMFS disagrees that PRiSM was used in Amendment 15 without explanation. As described above and in Amendment 15, NMFS began this rulemaking with scoping, including public hearings, in 2019. PRiSM was developed after scoping based on the need identified in the comments received during scoping. During its development, NMFS presented the idea and the results several times to the HMS Advisory Panel and considered their concerns and comments to further develop the model. After publication of Draft Amendment 15, NMFS continued to provide information about PRiSM at Advisory Panel meetings and during public hearings and webinars. Lastly, both the scientific journal (*Marine Biology*) article that describes PRiSM and Amendment 15 itself describe the need for PRiSM and how it was used. See Amendment 15 Section 2.9 (providing citation to *Marine Biology* article).

Comment 39: NMFS received a comment that the pelagic longline interaction rate table in Appendix 1 gives an inaccurate representation of the pelagic longline fishery's impact on billfish. NMFS received a separate comment that cited this table to support a request for increased protections for billfish since the interaction rate for those species is higher than those for shortfin mako sharks, leatherback sea turtles, and loggerhead sea turtles.

Response: The interaction rates in the Appendix 1 tables in Amendment 15 do not speak to and are not intended to make inferences about impacts on species. The purpose of the table is to demonstrate which species have a large enough sample size so that the relationship between environmental variables and catch could be calculated. In order to determine a relationship between two variables, a minimum sample size must be used. The minimum sample size largely depends on the variance of the data, but generally, a larger number of samples would more robustly establish the relationship between two variables than a smaller number of samples. To that end, the pelagic longline interaction rate table in Appendix 1 simply lists the occurrence rate (proportion of sets in which at least one individual was caught) of each species in observed pelagic longline sets (15-year time series) in the Atlantic and Gulf of America regions without breaking out locations, months, or years. As described in Section 2.3, the occurrence rate was used to select species that could be modeled through PRiSM, and the purpose of the table is to demonstrate which species have a large enough sample size that the relationship between environmental variables and catch can be calculated. No further inferences from the tables regarding the conservation or sustainability impact of the pelagic longline fishery are appropriate. In addition, the billfish interaction rate reflects the total occurrence rate of five species (blue marlin, white marlin, roundscale spearfish, longbill spearfish, and sailfish), which can make the rate seem higher. Individually, billfish species occurrence rates are much lower. In the Atlantic, occurrence rates for individual billfish species are 14 percent for blue marlin (meaning that 14 percent of all observed pelagic longline sets across all areas from 1997 through 2018 had a catch of at least one blue marlin), 25 percent for white marlin/roundscale spearfish, 1 percent for longbill spearfish, and 9 percent for sailfish. As described in more detail in Comment 40 below, billfish were aggregated in PRiSM to improve the sample size. See response to Comment 8, which provides information on existing billfish conservation and management measures.

Comment 40: NMFS received a comment that billfish should not be combined and modeled together in PRiSM since all five species have unique behaviors and distribution. One commenter expressed concerns that blue marlin were grouped together with other billfish species since it is the only billfish species that is overfished. After issuance of the FEIS, NMFS received comments reiterating concerns regarding the grouping of blue marlin with other billfish species.

Response: NMFS agrees that all five billfish species have unique behaviors and distribution, though blue marlin is not the only overfished billfish species (white marlin, roundscale spearfish, and sailfish are also overfished). However, as described in the response to Comment 39 above, not all of the billfish species have a high enough occurrence rate to calculate the relationship between environmental variables and catch. Combining all five species improves the sample size for modeling and provides for more statistical confidence in the results. Additionally, combining all five species generally results in a more temporally and spatially expansive (*i.e.*, more conservative) high-bycatch-risk area, providing more conservation-cautious interaction predictions. Based on a 2024 stock assessment, the status of blue marlin is now overfished with no overfishing occurring; this status is a change from the status during the comment period, which was overfished with overfishing occurring. The white marlin/roundscale spearfish stock assessment is ongoing, and the results are expected at the 2025 ICCAT annual meeting in November. Blue marlin and other billfish are subject to various measures, beyond spatial management areas, that conserve and manage the species. Amendment 15 does not change those management measures. See response to Comment 8, which provides information on existing conservation and management measures for blue marlin and other billfish.

Furthermore, as described in the response to Comment 38 above, the preferred management actions are not based solely on PRiSM results. Instead, PRiSM was used

only as a tool to help define potential options to consider for initial changes to the spatial management areas.

Comment 41: NMFS received comments stating that PRiSM should incorporate fishery-dependent data from other gear types, including recreational hook and line.

Response: NMFS disagrees. Because the four spatial management areas considered in Amendment 15 (Mid-Atlantic Shark, Charleston Bump, East Florida Coast, and DeSoto Canyon closed areas) are all specific to commercial longline gear, gear-specific fishery interaction predictions are necessary. Recreational gear (or other gear types) are not directly comparable to pelagic or bottom longline gear; therefore, their use in PRiSM to measure longline interactions would be inappropriate. In other words, if fishery managers want to know what would be caught on pelagic longline gear, catch data from pelagic longline gear (derived from logbooks, observers, EM, and other reporting) would be more informative than catch data from rod and reel gear since each gear type is fished differently and catches different species at different rates. *See generally* Section 4.9.1 of Amendment 15 (describing use of survey- and census-based approaches, as well as tournaments information, to estimate recreational landings). Furthermore, there is no source of recreational fishery-dependent data off the southeastern United States that would be comparable to the commercial fishery observer data used in PRiSM. In the context of Amendment 15, PRiSM helps guide conservation-risk-appropriate, gear-specific consideration of areas of high and low bycatch risk. For example, PRiSM informs preferred pelagic longline data collection inside the Charleston Bump closed area where pelagic longline is prohibited during portions of the year. For this purpose, it is critical that PRiSM provides pelagic longline-specific fishery interaction predictions.

Comment 42: NMFS received a comment that the PRiSM metrics used two different time periods without explanation (1997 through 2019 and 2017 through 2019) and raised questions about the validity of the model and metrics.

Response: As explained in Section 2.1 of Amendment 15, PRiSM used two different time periods: (1) a longer period was used to address environmental variables and variability, and (2) a shorter, recent period was used to address current fishery conditions. First, as fully described in the peer-reviewed, scientific journal (*Marine Biology*) article regarding PRiSM and in Chapter 2 of the Amendment, NMFS used observer data from 1997 through 2019 to calculate the relationship between environmental variables and catch. These data can be considered a source of actual catch data because these data are not predictions or model outputs. Once the relationship between environmental variables and catch is established, the model can predict fishery interactions in any area or time period. Second, in the context of Amendment 15, PRiSM is used to predict what fishery interactions would be if longline fishing were allowed in areas and times that currently prohibit longline fishing. Since we want to better understand what fishery interactions would be now, we need to apply the model relationships to more recent environmental conditions to understand recent fishery conditions and predicted catch. Additionally, due to natural fluctuations in environmental conditions (*e.g.*, warmer and cooler years), using an average across multiple years smooths out anomalies. To accommodate the need for recent environmental data across multiple years, PRiSM used average conditions across 2017 through 2019 to provide current predicted fishery interactions. In summary, metrics that compare actual catch data to predicted fishery interaction will necessarily, and appropriately, use different time periods.

Comment 43: One commenter suggested that instead of solely using interactions, PRiSM should incorporate mortality to allow for refined predictions on impacts to target

stocks and bycatch populations. After issuance of the FEIS, NMFS received a comment suggesting that the number/frequency of interactions with bycatch species from the video monitoring data be compared to the PRiSM interaction frequencies in each spatial management area.

Response: Incorporating mortality could further refine PRiSM and provide usable information for future iterations and related management decisions. NMFS may consider this suggestion in future iterations of PRiSM. At this time, Amendment 15 uses the less complex presence/absence information since a mortality-specific model is unlikely to produce widely different relative predictions on interaction locations and times. A mortality-specific model would likely have nearly identical interaction location and time predictions as the current iteration of PRiSM but would add additional prediction information about catch disposition and/or post-release mortality. NMFS may consider the utility of such predictions in future iterations of PRiSM.

As suggested in the comment submitted after release of the FEIS, NMFS intends to further validate PRiSM using actual catch data from the monitoring areas. Such data will provide increased tuning of the model and will further inform future iterations of the model and spatial management measures.

Comment 44: One commenter stated that PRiSM is used only to narrow the scope of closed areas and not to expand them into areas of high billfish bycatch. Another commenter stated that PRiSM was used to rationalize reintroducing pelagic longline gear into closed areas rather than to rationalize expanding the closed areas into areas with high bycatch risk. The commenter noted that PRiSM predicted a higher rate of billfish interactions with pelagic longline gear outside of the Charleston Bump closed area compared to within it. The commenter questioned the intention of using PRiSM to inform broadening or shrinking the boundaries of closed areas.

Response: At the draft stage, NMFS preferred some sub-alternatives that considered expanding the closed areas. After considering public comment, including comments that provided information on locations within the spatial management areas that could incentivize data collection, NMFS changed those sub-alternatives. As a result, the final preferred sub-alternatives in Amendment 15 focus on data collection inside low-bycatch-risk areas of the Charleston Bump and East Florida Coast Spatial Management Areas to improve spatial management in the future and maintain the status quo for the DeSoto Canyon and Mid-Atlantic Shark Spatial Management Areas. PRiSM model outputs provided bycatch predictions for areas both inside and outside of spatial management areas; however, Amendment 15 focuses on assessing bycatch risk within spatial management areas during times when they are closed. As data is collected within spatial management areas, NMFS will have more information to compare relative bycatch risk among different areas including inside and outside closed areas. Preferred Alternatives C2 and C4 provide for the timing of such analyses and Alternative E2 provides considerations for the review of spatial management areas. We note that billfish are subject to various measures, beyond spatial management areas, that conserve and manage the species. See response to Comment 8 (providing information on existing billfish measures).

Comment 45: NMFS received a comment that the rulemaking process is too slow to employ PRiSM since dynamic ocean conditions change by the time actions are implemented.

Response: PRiSM is capable of providing valuable information and predictions in light of the duration of the rulemaking process. In Amendment 15, PRiSM was used to help assess closed areas that have not been changed in decades. The flexible design of PRiSM allows for fishery interaction predictions across a range of time periods, including near real-time predictions, which will be more responsive to dynamic ocean conditions.

Even at slightly longer time scales than near real-time (such as recent average conditions over three years), PRiSM predictions can provide more responsive management to changes in bycatch locations in comparison to the static closure of areas that have been in effect. Additionally, as detailed in the “C” and “E” alternatives, Amendment 15 establishes a flexible framework that will give NMFS the ability to make adjustments to the spatial management areas as a result of a changing environment or changes in the industry in a timelier manner than was previously available.

Comment 46: NMFS received comments that PRiSM is a valuable tool to assess and modify areas. One commenter said that PRiSM is a scientifically-sound tool to help evaluate and modify spatial management areas. Other commenters noted that the pelagic longline fishery uses sophisticated software to avoid bycatch, similar to the information provided by PRiSM.

Response: NMFS agrees that PRiSM and similar spatial models are valuable tools for fishery management. Such models use many of the same environmental data and principles employed by the fishing fleet to select fishing locations.

Comment 47: NMFS received a comment that publication of the PRiSM methodology paper in the journal, *Marine Biology*, raises conflict of interest questions because one of the authors is an Associate Editor at the journal.

Response: NMFS disagrees. It is common practice for associate editors to continue to publish in journals they serve, and doing so in no way represents a conflict of interest so long as they are not assigned to handle the review of their own papers, which is a basic practice at any reputable journal, including *Marine Biology*. The author complied with the journal's Submission Guidelines regarding Competing Interests, which state: "Where an Editor or Editorial Board Member is on the author list they must declare this in the competing interests section on the submitted manuscript. If they are an author or have any other competing interest regarding a specific manuscript, another Editor or

member of the Editorial Board will be assigned to assume responsibility for overseeing peer review. These submissions are subject to the exact same review process as any other manuscript. Editorial Board Members are welcome to submit papers to the journal. These submissions are not given any priority over other manuscripts, and Editorial Board Member status has no bearing on editorial consideration." NMFS reviewed the PRiSM methodology paper and determined that it is consistent with NS2 (best scientific information available) and, after the independent peer review described in comment/response 48, determined that application of the PRiSM approach in Amendment 15 is also consistent with NS2.

Comment 48: NMFS received comments about the Center for Independent Experts (CIE) review of sections of the Amendment. The comments stated that CIE review does not lend credibility to Amendment 15 since the reviewers were instructed to not focus on the PRiSM methodology. Additionally, the commenters identified several suggestions and comments from the reviewers that appeared to be serious concerns and that NMFS did not address or respond to.

Response: NMFS disagrees that the CIE review was inappropriately focused and that the agency failed to address reviewer suggestions and comments. On July 8, 2022, NMFS submitted portions of the Draft Amendment 15 to CIE for review by three independent experts. NMFS requested that the reviewers provide comments on the description and communication of the spatial management alternatives and the application of the analytical approach including PRiSM's use in developing the alternatives and analyzing impacts. The portions of the Amendment selected for CIE review were those applicable to this request for reviewer comment. Because the PRiSM methodology had already been peer-reviewed and published in the scientific journal *Marine Biology*, we requested that reviewers not focus on the specific PRiSM methodology. However, NMFS did provide background material and answered questions

to ensure the reviewers had a complete understanding of the spatial modeling tool. On August 24, 2022, NMFS received review reports from the three CIE-selected independent experts. In general, all three reviewers were supportive of the analytical approach in Amendment 15. Each reviewer also found that the approach was well-described and communicated. In addition to the overall supportive findings, each reviewer also provided suggestions for near-term and long-term improvements in the approach and communication of the alternatives. Most of the suggestions were incorporated into the Amendment. Appendix 6 to Draft and Final Amendment 15 provides responses and/or actions taken to address each of the comments, suggestions, or questions in the reviewer reports.

Comment 49: NMFS received a comment expressing concern that PRiSM was intended to benefit recreational fishing at the expense of pelagic longline fishing.

Response: The intent of using PRiSM was not to reduce pelagic longline fishing access. Rather, NMFS used PRiSM as a tool to help define potential options to consider for initial changes to the pelagic and bottom longline spatial management areas.

Electronic Monitoring Cost Allocation

Comment 50: NMFS received many comments, including from state agencies, local governments, U.S. Senators, pelagic longline industry groups, EM vendors, and pelagic longline fishermen, expressing concerns with the proposed EM alternative (Alternative F2) and the practicality of the proposal. Generally, commenters noted that requiring pelagic longline owners to fund the EM program fleet-wide could have negative economic impacts, and one commenter stated that the proposed measure would likely “devastate local, state, and coastal communities along the east coast” and Gulf of America. Many commenters suggested that NMFS either continue to fund the EM program or remove the requirement from the current HMS regulations (Alternative F3), with several commenters stating that the EM Cost Allocation Policy appears inconsistent

with various NSs, the Magnuson-Stevens Act Limited Access Privilege Program cost recovery threshold, and E.O. 13985.

The Environmental Protection Agency, noting the adverse economic impact of the fleet-wide EM cost allocation preferred alternative (F2) in the draft Amendment 15, commented that additional analyses should be done to determine how the reduction in revenue, if realized, would affect fishermen and to identify potential mitigation strategies for the loss of income.

Response: The proposed EM cost allocation alternative (Alternative F2) was changed to no action (Alternative F1) based in part on public comment. As noted in Section 3.6.1, many of these comments, particularly from industry participants and representatives and from EM vendors, indicated that the proposed alternative to modify the EM program fleet-wide presented practical implementation impediments that NMFS believes warrant further consideration. For example, commenters noted fleet-wide implementation difficulties like billing individual vessel owners and on-vessel support with a dispersed fleet. With respect to Alternative F3, the EM program continues to be needed to support compliance with the bluefin tuna IBQ program. Thus, NMFS is not requiring fleet-wide vessel owner payment for EM at this time (Alternative F3 is not preferred) due to uncertain impacts on compliance with IBQ reporting requirements. NMFS may initiate future rulemaking to consider modifications to the HMS EM program as appropriate. Additionally, as described in numerous comments above, the FEIS preferred alternative to implement monitoring areas inside the Charleston Bump and East Florida Coast Spatial Management Areas requires pelagic longline vessels voluntarily choosing to fish in monitoring areas to abide by enhanced EM requirements and for vessel owners to pay the associated sampling costs. On January 20, 2025, EO 13985 was rescinded and succeeded by EO 14151, which renounced the reasoning of EO 13985 and established the current directive against all “equity” actions, initiatives, and programs.

General Miscellaneous Comments

Comment 51: Many commenters, both in support of and in opposition to Amendment 15, stated that the U.S. pelagic longline industry provides U.S. and international consumers access to important food sources. Many commenters noted that the pelagic longline fishery is already heavily regulated and that Amendment 15 would add more and unsustainable regulations. Some of these commenters requested that NMFS not add more regulations on the pelagic longline industry and/or lift regulations. Some commenters noted NOAA's National Seafood Strategy and encouraged NMFS to prioritize the resilience and longevity of the pelagic longline fleet. Other commenters noted that Amendment 15 would likely lead to a decrease of seafood exports and an increase of imported seafood. One commenter noted that NMFS created an unfair marketplace by importing seafood from foreign countries that do not meet U.S. standards. One commenter requested that NMFS improve regulations in other countries outside of the United States for better environmental conditions. One commenter noted that the United States imports over 90 percent of its seafood. One commenter noted that declining U.S. catch will lead to a reduction of U.S. quota and more imports from foreign countries resulting in a decrease of price for U.S. fishermen.

Response: The seafood supplied by the pelagic longline fleet is valuable as both a source of food and income supporting local jobs, communities, and the broader economy. The context in which vessels operate, including current regulations, was a relevant factor NMFS considered in determining whether new regulations are justified. NMFS took into consideration many factors in selecting preferred measures that address the diverse objectives of Amendment 15 in a balanced manner. Chapter 6 of the Amendment contains a cumulative impacts analysis which is broad in scope and takes into consideration past, present, and reasonably foreseeable factors. In addition, Chapter 2 of the Amendment contains a description of methods used to develop the spatial

management alternatives, and Chapters 3 and 5 describe and provide analysis of the impacts of the alternatives. The Final Regulatory Flexibility Analysis includes a description of the steps taken to minimize the economic impacts on small entities, and the reasons for the preferred measures. The United States manages fisheries within its EEZ in accordance with applicable U.S. laws and in response to the unique characteristics of its fisheries, and therefore the U.S. regulations regarding Atlantic HMS are different from the rules affecting citizens of other countries, which operate under different laws and circumstances. NMFS also actively engages in international fora, such as ICCAT, where decisions regarding HMS conservation and management are agreed to, and is dedicated to improving sustainable fishing practices beyond the U.S. EEZ.

Comment 52: NMFS received comments noting that Amendment 15 would decrease the viability of the pelagic longline industry and that such a decrease would also have a resulting significant negative impact on shoreside businesses (including restaurants and supply shops) and fishing businesses overall along the coast. Commenters suggested that vessel owners are proactively trying to sell boats and remove themselves from the fishery before the implementation of Amendment 15.

Response: Comments referencing adverse economic impacts largely focused on impacts from the Draft Amendment 15 preferred EM cost allocation alternative (Alternative F2) and preferred Charleston Bump and DeSoto Canyon Spatial Management Area Sub-Alternatives A2c and A4d that would have reduced fishing access. Amendment 15 preferred alternatives have changed to Alternative F1 (no action for EM cost allocation fleet-wide) and Sub-Alternatives A2f (Charleston Bump Spatial Management Area) and A4a (no action for DeSoto Canyon Spatial Management Area). As a result, the large economic impacts described in the Draft Amendment regarding alternatives preferred therein are no longer expected. In the Final Amendment, NMFS has updated the economic analyses for the preferred spatial management areas and for the

sampling costs of EM for owners of vessels that choose to fish in the monitoring areas (See Sections 5.2.3 and 5.6 of Amendment 15 for those economic analyses). Those analyses found that more limited industry funding of voluntary fishing and data collection would provide net economic benefits to those fishermen that choose to engage in monitoring area data collection. A future rulemaking will likely consider the cost of shifting the sampling costs of EM to the pelagic longline fishery fleet-wide.

Comment 53: NMFS received mixed comments regarding the complexity of Amendment 15. Numerous commenters stated that Amendment 15 contained too much information, was too complex, and was difficult to understand. Others were concerned that the online version of Amendment 15 was unusable and limited the ability for stakeholders to provide comments, suggesting that NMFS should have provided hard copies of the Amendment to pelagic longline constituents, particularly those in rural communities with more limited internet access. Other commenters stated that the complexity is indicative of a well-considered action with clear logic, strategy, and thorough consideration of a range of alternatives that would result in a high likelihood achieving the diverse objectives of the Amendment. Some environmental organizations expressed appreciation of the Agency's outreach and communication efforts, particularly the StoryMap, and requested that NMFS use StoryMaps more frequently in the future.

Response: Recognizing that Amendment 15 is a complex and nuanced action, at the draft stage, NMFS created several supporting outreach materials to simplify and more effectively communicate the contents of the action. These materials included a StoryMap, an electronic monitoring cost allocation infographic, and public hearing posters. All of these materials were accessible on the NMFS Amendment 15 website. See Chapter 2, paragraph 2 for information about communication and outreach about PRiSM for a wide range of audiences, including links to the website explaining PRiSM and the StoryMap website. Posters and hard copies of the Amendment were provided at the four in-person

hearings held in Manteo, NC; Jupiter, FL; Panama City, FL; and Houma, LA. These locations for public hearings were selected to provide as broad outreach as possible to communities in proximity to the spatial management areas and in areas with a large number of affected permit holders. Additionally, per usual practice, NMFS printed and shipped numerous hard copies of the Amendment to stakeholders in response to specific requests. NMFS conducted several public hearings, both in person and via webinar. These hearings were designed to inform the public of the proposed measures in a readily understandable format, as well as provide opportunities for the public to comment and ask questions. To the extent possible, NMFS facilitated communication with the public via the internet and website and, where specifically requested, had individual discussions with stakeholders to walk through the Amendment and the proposed measures. The amount and complexity of information in the Amendment reflect the scope of the objective of Amendment 15 and the number of alternatives analyzed. The complexity is also due to the diversity of the pelagic and bottom longline fisheries and the number of applicable laws and processes. In finalizing the Amendment, NMFS has attempted to describe things more simply in response to these comments. NMFS will also be providing a small entity compliance guide (as required under the Small Business Regulatory Enforcement Fairness Act) and will be updating some of the outreach materials created for the Draft Amendment and proposed rule. NMFS will consider using StoryMaps more in the future as needed.

Comment 54: A commenter requested that the Agency withdraw Draft Amendment 15 and restart the rulemaking process with an Advanced Notice of Proposed Rulemaking (ANPR). Some commenters requested that NMFS extend the public comment period to allow more time to understand the Draft Amendment 15 and to provide public comment. After issuance of the FEIS, NMFS received a comment requesting that NMFS re-propose Amendment 15 with a revised DEIS.

Response: NMFS disagrees that withdrawing or re-proposing Amendment 15 and restarting the rulemaking process is needed. On May 16, 2019, NMFS provided formal notice to the public that NMFS intended to prepare an environmental impact analysis, announced the availability of an Issues and Options paper and the start of the public scoping process (with a comment period of May 16 through July 31, 2019), and solicited public comments (84 FR 22112). NMFS held five scoping meetings, including a webinar, and conducted scoping during the spring HMS Advisory Panel meeting pertaining to spatial management research. During the development of the proposed rule, NMFS considered public comments received on the Issues and Options paper, including comments provided at the May 2019 HMS Advisory Panel Meeting. Between 2019 and the release of the proposed rule in 2023, NMFS developed the PRiSM spatial model and presented it several times to the HMS Advisory Panel (Fall 2020, Fall 2021, Spring 2023, and Fall 2023 HMS Advisory Panel Meetings), which is conducted in meetings open to the public. In 2020 and 2021, the meetings were fully online; the meetings in 2023 had both in-person and online options. Transcripts of all meetings are available online (see Addresses). Those Advisory Panel discussions helped NMFS develop the proposed rule and Draft Amendment. NMFS published the proposed rule and Draft Amendment 15 on May 5, 2023 (88 FR 29050). In that proposed rule, NMFS announced that the public comment period would end on September 15, 2023. Due to requests from multiple constituents, NMFS extended the comment period for this action to October 2, 2023 (88 FR 62044, September 8, 2023). The five-month duration of the comment period provided reasonable opportunity for the public to comment on the proposed management measures.

As stated in Amendment 15 and this final rule, the preferred modifications to the Charleston Bump and East Florida Coast spatial management areas in this action were developed based on public comments and additional analyses and is a combination of

modification sub-alternatives analyzed in Draft Amendment 15. These measures strike a balance between collecting fishery-dependent data to assess closed areas, minimizing bycatch, and reducing gear conflict while increasing access to productive fishing grounds in order to fulfill Amendment 15's objectives. Given the robust public comment on the Draft Amendment 15 alternatives and proposed rule, which directly led to the development of the Final Amendment 15-preferred alternatives, NMFS does not believe re-proposal of the Amendment is necessary.

Comment 55: Noting the complexity of the document, some commenters stated that Amendment 15 should be split into separate actions. One commenter suggested that NMFS implement the EM Cost Allocation policy prior to establishing the spatial management areas.

Response: NMFS included spatial management areas and EM cost allocation components together in Amendment 15 because of the link between the monitoring areas and EM. In Final Amendment 15, NMFS is finalizing changes to spatial management areas, including enhanced EM requirements in the East Florida Coast and Charleston Bump Monitoring Areas. To monitor those areas, many of the proposed EM cost allocation measures (Alternative F2) are being finalized in Amendment 15. NMFS is not finalizing the broader EM measures to switch sampling costs to the pelagic longline fleet overall. See response to Comment 50 for further explanation.

Comment 56: NMFS received comments noting the proposed measures protect fish stocks ocean-wide. Some commenters suggested that NMFS maintain the current closed areas to allow fish stocks to continue to rebound. One commenter noted that tuna are abundant. Another commenter stated that Amendment 15 fails to protect Atlantic billfish, including marlins.

Response: NMFS agrees that these closed areas have played an important role in rebuilding overfished species, conserving protected species, and maintaining sustainable

stocks. The goal of this Amendment is to enhance management and conservation goals of existing closed areas by collecting data and reassessing the areas. As described in Amendment 15, in the future, NMFS will regularly, and on an as-needed basis, evaluate these areas to consider what potential modifications need to be made to balance conservation and management requirements, including any conservation needs of tunas and billfish. See response to Comment 8 for information on billfish conservation and management measures.

Comment 57: NMFS received a comment expressing concern that the Agency has not provided the stock assessment status of sailfish. This comment further noted that the stock assessment worked on in 2023 was not released to the public.

Response: West Atlantic sailfish is assessed internationally through the Standing Committee on Research and Statistics (SCRS), the scientific body of ICCAT, a regional fishery management organization established by treaty of which the United States is a member. U.S. scientists participate in SCRS stock assessments. The most recent stock assessment for West Atlantic sailfish was conducted at the 2023 Atlantic Sailfish Data Preparatory and Stock Assessment Meeting held in June 2023, which was during the proposed rule comment period for Amendment 15. The results were not formally accepted until the annual ICCAT meeting in November 2023. No new measures regarding sailfish were adopted at the 2023 ICCAT annual meeting; the current measure adopted in 2016 (Recommendation 16-11) remains in place. The results of the stock assessments indicated that the West Atlantic sailfish stock is overfished with $B_{2021}/B_{MSY} = 0.96$ (0.59 - 1.49), but not experiencing overfishing with $F_{2021}/F_{MSY} = 0.59$ (0.36 - 0.95). More information regarding the 2023 Atlantic Sailfish stock assessment can be found in the 2023 ICCAT SCRS Report available at https://www.iccat.int/Documents/Meetings/Docs/2023/REPORTS/2023_SCRS_ENG.pdf and the stock assessment meeting report available at

https://www.iccat.int/Documents/Meetings/Docs/2023/REPORTS/2023_SAI_ENG.pdf.

The schedule of all SCRS meetings as well as meeting reports are made publicly available on the ICCAT website (<https://www.iccat.int/>). In addition, SCRS stock assessment results and scientific advice were presented during the October 2023 U.S. ICCAT Advisory Committee meeting, during the session open to the public (88 FR 67731, October 2, 2023). There were no changes to the Amendment 15 analyses needed based on the Atlantic sailfish stock assessment.

Comment 58: Comments were submitted stating that the recreational fishery has a larger impact on billfish than the pelagic longline fleet.

Response: The purpose of Amendment 15 is to address spatial management regulations on the commercial longline fishery. Management of the recreational billfish fishery is outside the scope of this action. While this Amendment would not change any regulatory requirements for recreational fishermen, NMFS recognizes and describes potential impacts on and by recreational fisheries in Chapter 4 of the Amendment.

Comment 59: NMFS received a comment opposed to Amendment 15 asserting that offshore wind farms cause ecosystem effects that can benefit and harm marine environments, and undersea cables from wind farms have the potential to alter the movements and migrations of fish. The comment stated that resources should be directed toward studying environmental stressors and assess the physiological and behavioral responses of fish to offshore wind farms.

Response: Amendment 15 considers the modification, data collection, and assessment of longline spatial management measures in the Atlantic and Gulf of America, as well as changes to the administration and funding of the HMS EM program. This comment is outside the scope of this action. However, information about related potential impacts to HMS can be found in Chapter 6 on cumulative impacts. Information regarding renewable energy, including offshore wind energy, can be found at

<https://www.boem.gov/renewable-energy>. NMFS agrees that resources should be directed towards studying the impacts of offshore wind on fish, and information regarding NMFS's role in offshore wind development, including various research efforts, can be found at <https://www.fisheries.noaa.gov/topic/offshore-wind-energy>.

Comment 60: NMFS received several comments that Amendment 15 is unconstitutional.

Response: The commenters do not specify what constitutional concern they believe Amendment 15 raises. NMFS disagrees that Amendment 15 is unconstitutional. It complies with the Magnuson-Stevens Act and other applicable laws as described in Chapter 9 of Amendment 15.

Comment 61: NMFS received a comment requesting a moratorium on new recreational vessels entering the fishery.

Response: This comment is outside of the scope of this action. The purpose of Amendment 15 is to collect data to assess whether spatial management measures are meeting conservation and management goals.

Comment 62: Some commenters noted that reporting requirements for pelagic longline fishermen are unfair compared to those for other commercial and recreational HMS fisheries.

Response: This comment is outside of the scope of this action. The purpose of Amendment 15 is to collect data to assess whether certain spatial management measures affecting longline gear are meeting conservation and management goals. NMFS has undertaken separate actions to address reporting more broadly. On May 12, 2023, NMFS released and took comment on an advanced notice of proposed rulemaking regarding electronic reporting (88 FR 30699). Furthermore, on September 6, 2024, NMFS published a proposed rule regarding electronic reporting (89 FR 72796) which considers the reporting requirements across all HMS fisheries, both commercial and recreational.

Changes from the Proposed Rule (88 FR 29050, May 5, 2023)

This section explains the changes in the regulatory text from the proposed rule to the final rule. The changes are being made in response to public comment and/or refined analyses or to clarify text. For the Charleston Bump and East Florida Coast spatial management areas, we developed new sub-alternatives A2f and A3f, respectively, based on public comment and additional analyses, that are combinations of other sub-alternatives analyzed in Draft Amendment 15. These new sub-alternatives and modifications to other proposed measures, which are finalized in this rule, fall within the scope of, or are a logical outgrowth of, the alternatives in the proposed rule and Draft Amendment 15. The changes from the proposed rule include changes to the boundaries and/or timing of the Mid-Atlantic shark, Charleston Bump, East Florida Coast, and DeSoto Canyon spatial management areas, changes to the monitoring area requirements, removal of the proposed fleet-wide vessel owner payment for of EM program sampling costs, and revisions to the proposed EM requirements for application within monitoring areas. The changes from the proposed rule text in the final rule are described below.

1. Modification to the Spatial Management Areas (§§ 635.2, 635.9, 635.35).

Mid-Atlantic Shark Spatial Management Area

NMFS proposed modifications to both the geographic boundary and closure timing of the current Mid-Atlantic shark closed area. These proposed modifications extended the eastern boundary of the current closed area and shifted the closure timing to begin on November 1 of one year and end on May 31 of the following year. This proposed area was designated as a high-bycatch-risk area named the “Mid-Atlantic Bottom Longline Restricted Area.” This final rule maintains the current geographic boundary of the existing Mid-Atlantic shark closed area as a high-bycatch-risk area and finalizes the proposed shift in timing (November 1 - May 31) and name change. There will be no new data collection methods instituted through this final rule for the Mid-

Atlantic area, with data collection continuing to be conducted as it is currently via shark research permits and exempted fishing permitted activities under the scope of § 600.745. Such activities include EFPs and SRPs per § 635.32.

Charleston Bump Spatial Management Area

NMFS proposed modifications to both the geographic boundary and closure timing of the current Charleston Bump closed area. The proposed geographic modifications included delineating high- and low-bycatch-risk areas with a diagonal bisect from the northeastern corner of the current closure southwest to a point near the Charleston Bump bathymetric feature on the southern boundary; the overall footprint of the current Charleston Bump closed area was not proposed to change. The area inshore of the boundary was proposed to be designated as a high-bycatch-risk area. As proposed, this area would have been closed to pelagic longline gear year-round (as opposed to the current closure of February 1 through April 30 of every year) and would have been combined with the high-bycatch-risk area of the East Florida Coast closed area to create the “South Atlantic Pelagic Longline Restricted Area.” The area offshore of the boundary was proposed to be designated as a low-bycatch-risk area named the “Charleston Bump Monitoring Area.” In this area, fishermen with HMS permits who were fishing with pelagic longline gear could have fished with additional restrictions and requirements from February 1 through April 30. These additional requirements included limiting the level of fishing effort in the Monitoring Area. Specifically, NMFS proposed setting an effort cap of 69 pelagic longline sets from February 1 through April 30 and requiring that vessels arrange and pay for an enhanced EM video review rate of 100 percent of all sets if choosing to fish in the monitoring area.

As described in the response to comments, we have modified this measure in several ways. First, the final rule shifts the proposed boundary between the high- and low-bycatch-risk areas to a diagonal line approximately 45 nautical miles from shore at

the northern and southern extents within the 100-fathom bathymetric line. The area inshore of the boundary, designated as a high-bycatch-risk area, will now be named the “Charleston Bump Pelagic Longline Restricted Area,” and will be closed to pelagic longline gear from February 1 through April 30. This high-bycatch-risk area will no longer be combined, as proposed, with the East Florida Coast high-bycatch-risk area to create the South Atlantic Pelagic Longline Restricted Area. Second, the final rule increases the pelagic longline effort cap in the Charleston Bump Monitoring Area to 380 pelagic longline sets from February 1 through April 30. Through separate rulemaking, NMFS may consider apportioning these effort caps across different time frames to ensure enough data to assess the monitoring area throughout its effective time period. Third, the final rule establishes an enhanced EM video review rate of 50 percent at the vessel owner’s expense if their vessels choose to fish in a monitoring area. Lastly, NMFS is clarifying in this final rule that should reopening of a monitoring area, after its initial closure during that calendar year, be warranted due to the original reasons prompting closure no longer being valid (*e.g.*, effort cap has not actually been reached or conservation and management concerns no longer exist), NMFS will file for publication with the Office of the Federal Register an action to reopen the monitoring area. For instance, if NMFS closed an area due to an effort cap but later determined that the cap was not in fact reached, NMFS would file an action with the **Federal Register** to reopen the monitoring area for the remainder of its effective time period during that calendar year. If the effort cap was reached later that year, NMFS has authority to close the area again.

As proposed, this final rule provides that data collection in the high-bycatch-risk area will be available through issuance of EFPs for research. While Amendment 15 refers to EFPs in Alternative B4, such activities include those permitted through EFPs and SRPs (*see* 50 CFR 635.32(b)). EFPs and SRPs are issued for similar activities; however, NMFS

generally issues an EFP when the research activity is conducted on a recreational and/or commercial fishing vessel and issues an SRP when the research is conducted on a scientific research vessel (as defined by 50 CFR 600.10). For the low-bycatch-risk area, in addition to enhanced EM review (described above), the final rule provides (as proposed) that vessels that choose to fish in the area would be subject to enhanced vessel monitoring system (VMS) reporting requirements (hail-out and reporting on specific bycatch species within 12 hours after completion of each set). NMFS will also consider applications for EFPs or SRPs in the low-bycatch-risk area.

East Florida Coast Spatial Management Area

NMFS did not propose changes to the overall footprint of the East Florida Coast closed area. Similar to the proposed changes for the Charleston Bump closed area, the proposed rule would establish high- and low-bycatch-risk areas along a diagonal boundary within that footprint. The proposed area inshore of the boundary would have been designated as a high-bycatch-risk area. As noted earlier, this area would have been combined with the proposed Charleston Bump high-bycatch-risk area to create the South Atlantic Pelagic Longline Restricted Area. The area offshore of the boundary would have been designated as a low-bycatch-risk area named the “East Florida Coast Monitoring Area.” Within this monitoring area, fishermen with HMS permits who are fishing with pelagic longline gear could have fished in the area year-round with additional restrictions and requirements. To limit the level of fishing effort in the monitoring area, NMFS proposed setting an effort cap of 124 pelagic longline sets per year. NMFS also proposed requiring that vessels arrange and pay for enhanced EM video review rate of 100 percent of all sets if they choose to fish in the monitoring area.

As described in the response to comments, NMFS has modified this measure in several ways. First, the final rule shifts the diagonal boundary to a diagonal line beginning inside of the 100-fathom shelf break in the north, extending southeast to a

point at the eastern edge of the current closure around Sebastian, Florida. The area inshore of the boundary, designated as a high-bycatch-risk area, will now be named the “East Florida Coast Pelagic Longline Restricted Area” and will be closed to pelagic longline gear year-round. The high-bycatch-risk area will no longer be combined with the Charleston Bump high-bycatch-risk area to create the South Atlantic Pelagic Longline Restricted Area. Second, the final rule increases the pelagic longline effort cap in the East Florida Coast Monitoring area to 250 pelagic longline sets per year. Through separate rulemaking, NMFS may consider apportioning effort caps across different time frames to ensure enough data to assess the monitoring area throughout its effective time period. Third, the final rule establishes an enhanced EM video review rate of 50 percent within a monitoring area. This enhanced rate will be at the vessel owner’s expense if their vessels choose to fish within a monitoring area. Data collection and reporting within the high- and low-bycatch-risk areas would be the same as described for the Charleston Bump spatial management area. Lastly, the final rule makes the same clarifications regarding potential reopening of the monitoring area after initial closure during the calendar year as with Charleston Bump spatial management area.

DeSoto Canyon Spatial Management Area

NMFS proposed modifications to the geographic boundary of the current DeSoto Canyon closed area. This modification changed the overall footprint of the DeSoto Canyon closed area to create a parallelogram, designated as a high-bycatch-risk area named the “DeSoto Canyon Pelagic Longline Restricted Area,” which would have been closed year-round to pelagic longline gear. The areas outside the parallelogram that are currently closed year-round would have been designated as low-bycatch-risk areas and would have been open to normal commercial pelagic longline fishing activities.

As described in the response to comments, in this final rule, we are maintaining the status quo for the boundaries and timing of the existing DeSoto Canyon closed area.

The current DeSoto Canyon closed area will be fully designated as a high-bycatch-risk area named the “DeSoto Canyon Pelagic Longline Restricted Area.” As with all the high-bycatch-risk areas, this final rule provides that data collection would be available via EFPs and SRPs.

In summary, for the regulatory text related to the spatial management areas (§ 635.35), NMFS has made changes from the proposed regulatory text to (1) implement the final modifications detailed above, (2) change the current names of the areas from “closed” to “gear restricted” as relevant, (3) separate out the requirements between gear restricted areas and monitoring areas, (4) reorder monitoring area paragraphs to consolidate information related to effort caps and the effective period of a monitoring area and to reiterate other applicable requirements from other sections, (5) delete proposed § 635.35(f)(ii) (usefulness of information from catches) as it overlaps with other spatial management area review factors, and (6) make minor clarifications or changes to other factors based on consultations with the SEFSC and as a result of Executive Orders that have been added or revoked since January 20, 2025.

2. Modification of the electronic monitoring cost allocation (§ 635.9).

NMFS proposed requiring pelagic longline vessel owners fleet-wide to pay sampling costs associated with the EM program. Vessels under the program currently have NMFS-provided EM systems. The proposed rule provided that NMFS would continue funding the administrative portions of the EM Program. The proposed payment requirements would have been phased in over a three-year period and would have included components designed to create a standardized EM Program that may be implemented by NOAA certified vendors. In conjunction with the phase-in of sampling costs, the proposed rule included requirements for (1) the EM vendor application and approval process, (2) EM vendor requirements (including developing vessel monitoring plans in consultation with vessel owners), (3) vessel owner and operator requirements,

and 4) modification of current IBQ Program's EM spatial/temporal requirements to require EM within EM Data Review Areas in order to operationalize the sampling plan design. Additionally, due to the proposed fleet-wide requirement for vessel owners to pay for EM sampling costs, NMFS did not differentiate between the necessary EM system requirements inside and outside the monitoring areas. At this time, NMFS is not requiring the pelagic longline industry fleet-wide to pay for EM sampling costs. Thus, the final rule retains existing EM regulations at § 635.9(a)-(g) with some revisions, explained below, and is not finalizing the proposed EM Data Review Areas. However, vessel owners would be required to pay for EM sampling costs if their vessels choose to fish in the Charleston Bump Monitoring Area or the East Florida Coast Monitoring Area. Thus, this rule adds a new paragraph (h) related to EM within monitoring areas, which includes requirements for EM vendors and vessel owners and operators from the proposed rule. As described above, the required EM video review rates in monitoring areas are now 50 percent of all sets, a change from the 100-percent rate that was originally proposed.

Current § 635.9(d) requires an EM system to allow authorized NMFS or U.S. Coast Guard officers or any NMFS-approved contractor to observe live video on the system monitor. Proposed § 635.9(g) replaced "NMFS-approved contractor" with "approved EM vendor" and added state law enforcement officers and a citation to the MSA confidentiality of information provision, 16 U.S.C. 1881a(b)(1). To simplify the text, the final rule deletes the citation to 16 U.S.C. 1881a(b)(1). Because vessel owners will not be required to pay for EM sampling costs fleet-wide, final rule § 635.9(d) retains the reference to "NMFS-approved contractor;" clarifies that vessel owners or operators must provide access to EM systems, including data, upon request, "to any NMFS-approved contractor;" clarifies "authorized officers" consistent with the MSA, 16 U.S.C. 1861; and adds text to address EM systems used for monitoring areas and certified EM vendors who provide services for those areas. Final § 635.9(e)(4) clarifies that the hard

drive mailing requirement applies regardless of whether a vessel fished inside or outside of a monitoring area.

New paragraph § 635.9(h) sets forth EM requirements for monitoring areas: EM cost responsibilities, the EM vendor application and approval process, EM vendor requirements, EM system requirements, and vessel owner and operator requirements from proposed § 635.9(b), (c), (d), and (e) with revisions to tailor the proposed fleet-wide provisions to just the monitoring areas. Sampling costs (vessel owner responsibility) include, but are not limited to, the costs of enhanced EM video review described above, data transmittal, and equipment and equipment maintenance and upkeep. At this time, vessel owners that choose to select an EM vendor that is different from the EM vendor that NMFS uses for the fleet-wide EM Program may need to purchase additional cameras or other equipment, if different cameras or equipment are required by their EM vendor. The final rule refers to approved vendors as “certified” (*see* § 635.9(h)(2)(ii)-(iv), (3)).

Paragraph § 635.9(h)(3)(ii) acknowledges that a certified EM vendor may determine that a part of, or none of, the NMFS-provided EM system is compatible with the vendor’s equipment, software, *etc.*, and may require a vessel owner whose vessel chooses to fish in a monitoring area to buy or lease EM system components. Thus paragraph (h)(3)(ii) clarifies the necessary EM system capabilities for monitoring areas. Section 635.9(c) sets forth EM system components and capabilities for EM systems used fleet-wide. For the monitoring areas, the final rule would require the same capabilities as in paragraph (c) (*e.g.*, camera(s) with sufficient resolution to determine the number and species of fish caught, ability to initiate video recording at the time gear retrieval starts, *etc.*), but not the exact components currently required (*e.g.*, removable hard drives are not required). Because hard drives are not required, final § 635.9(h)(3)(ii) adds that the EM system must be capable of protecting all electronic data (video, metadata, and sensor data if any) from tampering and collecting and sending all electronic data to the vessel’s EM

vendor. NMFS is not requiring vessel owners to pay for the sampling costs of the EM Program fleet-wide at this time. NMFS may initiate a future rulemaking to consider modifications to the HMS EM program as appropriate.

3. Technical Adjustments (§§ 635.21, 635.71, and other sections throughout the rule.)

In addition to the changes described above, the final rule makes a number of technical changes throughout the existing regulations both to clarify the language as needed and to correct cross-references or other inconsistencies for paragraphs that are changing based on the changes in this final rule. These changes can be found throughout the regulatory text and do not affect the substance of the final rule or the existing regulations. In § 635.9(h)(3)(i), the final rule streamlines the text by deleting details about vessel monitoring plans (VMPs) and cross-referencing paragraph (e), which contains those details. In § 635.21, given the number of cross-reference corrections, we are simplifying the amendatory instructions for paragraphs (c) and (d) regarding existing sea turtle provisions by including entire paragraphs even when no changes are made to the existing text. Additionally, we are clarifying at § 635.35(c)(4) that research activities can be conducted within the Northeast Distant gear restricted area (NED) via EFPs or SRPs. Such permits are currently issued to fishing vessels participating in specific research authorized under § 635.32. In this action, NMFS is clarifying such research activities for public transparency. These changes are editorial in nature.

Classification

The NMFS Assistant Administrator has determined that this final rule is consistent with section 304(g) and other provisions of the Magnuson-Stevens Act, the HMS FMP and its amendments, ATCA, and other applicable law.

As described above, NMFS prepared an FEIS for Amendment 15. The Notice of Availability for the FEIS was published in the **Federal Register** on May 10, 2024 (89 FR 40481). In approving Amendment 15, NMFS issued a Record of Decision identifying the

selected alternatives. A copy of the Record of Decision for the FEIS, which includes detailed analyses of a reasonable range of alternatives to meet rulemaking objectives, is available from NMFS (see **ADDRESSES**).

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule is not an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

NMFS has determined that this action would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes; therefore, consultation with Tribal officials under E.O. 13175 is not required, and the requirements of sections (5)(b) and (5)(c) of E.O. 13175 also do not apply. A Tribal summary impact statement under section (5)(b)(2)(B) and section (5)(c)(2)(B) of E.O. 13175 is not required and has not been prepared.

Final Regulatory Flexibility Analysis

A FRFA was prepared. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS responses to those comments, and a summary of the analyses completed to support the action. A summary of the FRFA, which must address each of the requirements in 5 U.S.C. 604(a)(1)-(5), is below. The entire FRFA is included in Amendment 15 and is available as provided in the **ADDRESSES** section above. Some clarifications regarding the preferred alternatives and Small Business size standards that differ from the standalone FRFA are included in the summary below.

Section 604(a)(1) of the Regulatory Flexibility Act (RFA) requires agencies to state the objective of, and legal basis for, the action. The objectives of, and legal basis for, this final rule are set forth in the Background section above.

Sections 604(a)(2) and (3) of the RFA requires that a FRFA include a summary of significant issues raised by public comment or by the Chief Counsel for Advocacy of the Small Business Administration in response to the IRFA and proposed rule, 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 did not receive any comments on the proposed rule from the Chief Counsel for Advocacy of the Small Business Administration. Additionally, NMFS did not receive any public comments specifically on the IRFA; however, the agency did receive some comments regarding the anticipated or perceived economic impact of the rule. Below is a summary of those comments and responses that pertain specifically to such economic impacts. A summary of all of the comments received and the Agency's responses are provided above.

NMFS received comments that closure of the Charleston Bump year round or for certain months would have negative impacts on businesses. Some commenters noted the Draft Amendment 15-preferred alternative would eliminate access to the western edge of the Gulf Stream along the 100-fathom shelf break year-round, preventing shorter day trips, increasing the need for fuel, and forcing fishermen to travel further to fish in more dangerous areas in the mid-winter months. Some commenters that operate in the area stated that they would need to relocate to other areas or exit the fishery completely. Based on public comments and additional analyses, NMFS reconsidered the boundaries of the high-bycatch-risk area of the Charleston Bump spatial management area and designed a new preferred sub-alternative (Sub-Alternative A2f) that is a combination of several of the other sub-alternatives considered. The new preferred Sub-Alternative A2f moves the eastern boundary of the high-bycatch-risk area, relative to the current Charleston Bump closed area, westward, inside of the 100-fathom shelf break, to a diagonal line 45 nmi from shore at the northern and southern extents. The western boundary of this management area remains the same as the current western boundary of Charleston Bump

closed area. The area inshore of the boundary is designated high-bycatch-risk area and offshore of that boundary is designated low-bycatch-risk area. The temporal extent of both the high-bycatch-risk area and low-bycatch-risk area is February 1 through April 30. This modification of the area and temporal extent of the closure is consistent with the intention to not limit fishing access, should reduce the potential for unintended limitations to fishing, including on species managed under other FMPs, since no new areas/times would be closed to pelagic longline fishing. Additionally, this modification is expected to encourage data collection by providing access to desired fishing grounds, based on public comment stating that the 100-fathom depth contour is one of the most productive fishing grounds in the area and that it becomes less productive further offshore.

In another comment, the FWC cautioned that the proposed DeSoto Canyon Spatial Management Area modification would impact many HMS and non-HMS tournaments which are important economic drivers in coastal communities. In response to this comment, NMFS has reconsidered the proposed changes to the shape of the DeSoto Canyon spatial management area. The new preferred alternative would maintain the current footprint of the closed area. Thus tournaments should not be affected by the preferred alternative in Final Amendment 15.

Several comments noted that the requirement for vessel owners choosing to fish in monitoring areas to pay for expanded EM review in the proposed Charleston Bump and East Florida Coast monitoring areas would be expensive and may dissuade fishermen from collecting data in the areas. They suggested looking for ways to decrease the cost through a lower review rate or a combination of observers and EM on a subset of trips. NMFS acknowledges that the requirement for fishermen to pay for expanded EM review if they choose to fish in a monitoring area may dissuade individuals from entering into the relevant monitoring areas. Monitoring areas provide special access for vessels to fish

under certain requirements in currently closed areas that vessels would otherwise be prohibited from fishing in. These requirements include data collection. Any vessel owner who does not wish or is not able to incur the costs of enhanced EM video review could avoid such costs by maintaining current fishing practices and locations. After considering public comment and consistent with the goal of data collection, NMFS has lowered the EM video review rate for vessels choosing to fish in the monitoring areas to 50 percent to ensure that conservation and management needs are met. Under the revised Sub-Alternative B3e, NMFS anticipates that some vessels will choose to fish in the monitoring areas, and the 50-percent video review rate will provide detailed information on bycatch and incentivize accurate bycatch reporting by fishermen. The amount of fishing effort in a monitoring area will reflect commercial fishermen's decisions to fish in the area based on market conditions, fish availability, and the restrictions of the monitoring area (*see* Amendment 15 Section 5.2.3).

NMFS received many comments expressing concerns with the proposed EM Alternative (Alternative F2) and the practicality of the proposal. Generally, commenters noted that transitioning the cost of EM from the agency to the pelagic longline fleet could have negative economic impacts that would likely devastate local, state, and coastal communities along the east coast and Gulf of America. Based in part on these public comments, NMFS changed the proposed EM cost allocation alternative to maintain the status quo (Alternative F1) since many of these comments, particularly from industry participants and representatives and from EM vendors, indicated the proposed alternative to modify the EM program presented practical implementation impediments that could warrant further consideration. While the final rule does not require vessel owners fleet-wide to pay for sampling costs of the EM program, NMFS intends to initiate future rulemaking to consider modifying the HMS EM program as appropriate. Additionally,

this final rule provides that vessel owners are responsible for EM sampling costs if their vessels choose to fish in the monitoring areas.

Many commenters, both in support of and in opposition to Amendment 15, stated that the U.S. pelagic longline industry provides U.S. and international consumers access to important food sources, and they are concerned about fairness in the marketplace and the effects this rule and Amendment 15 may have on imports and exports of seafood. NMFS notes that seafood supplied by the pelagic longline fleet is valuable as both a source of food and for the generation of local jobs, communities, and the broader economy. The context in which vessels operate, including current regulations, was a relevant factor NMFS considered in determining whether new regulations are justified. NMFS took into consideration many factors in selecting preferred measures that address the diverse objectives of Amendment 15 in a balanced manner. The FRFA includes a description of the steps taken to minimize the economic impacts on small entities and the reasons for the preferred measures. Steps taken to minimize economic impacts on small entities include increased access to potentially productive fishing grounds and reduced EM costs relative to the proposed rule to access those grounds. Vessel that do not wish to incur additional EM costs can continue to fish in areas and times that have been authorized prior to this final rule.

NMFS received comments noting that Amendment 15 would decrease the viability of the pelagic longline industry and that such a decrease would also have a resulting significant negative impact on shoreside businesses (including restaurants and supply shops) and fishing businesses overall along the coast. Commenters suggested that vessel owners are proactively trying to sell boats and remove themselves from the fishery before the implementation of Amendment 15. Comments referencing adverse economic impacts largely focused on impacts from the preferred EM cost allocation alternatives and the Charleston Bump and DeSoto Canyon spatial management area modifications

that would have reduced fishing access. Preferred alternatives for those portions of Amendment 15 have changed. As a result, the large economic impacts described in the Draft Amendment regarding those alternatives are no longer expected. In the Final Amendment, NMFS has updated the economic analyses for the preferred spatial management areas and EM. The updated analysis considers the costs to vessel owners whose vessels choose to fish in the monitoring areas and who would, therefore, still incur the costs related to paying for the sampling costs of EM for voluntary trips in the monitoring areas. A future rulemaking will likely consider the cost of requiring all pelagic longline vessels to pay for EM sampling costs.

Section 604(a)(4) of the RFA requires Agencies to provide an estimate of the number of small entities to which the rule would apply. The Small Business Administration (SBA) authorizes an agency to develop its own industry-specific size standards after consultation with the SBA Office of Advocacy and an opportunity for public comment (see 13 CFR 121.903(c)). Pursuant to this process, NMFS issued a final rule that established a small business size standard of \$11 million in annual gross receipts for all businesses in the commercial fishing industry (North American Industry Classification System (NAICS) code 11411) for RFA compliance purposes (80 FR 81194; December 29, 2015; effective on July 1, 2016). SBA has established size standards for all other major industry sectors in the U.S., including the scenic and sightseeing transportation (water) sector NAICS code 487210, for-hire), which includes charter/party boat entities. SBA has defined a small charter/party boat entity as one with average annual receipts (revenue) of less than \$14.0 million. In 2020, NMFS conducted an informal review of the small business size standards and determined that no changes to the 2016 standards were needed at that time. In 2025, NMFS completed a review of the small business size standard on that resulted in maintaining the existing size standard (90 FR 52917, November 24, 2025).

NMFS considers all HMS permit holders to be small entities because they had average annual receipts of less than \$11 million for commercial fishing. None of the commercial fishing business owners reported having more than \$11 million in gross receipts on the annual Federal permit application form for their limited access fishing permit renewal. Regarding those entities that would be directly affected by the measures implemented by this final rule, the average annual revenue per active pelagic longline vessel is estimated to be \$222,000, based on approximately 82 active vessels that produced an estimated \$18.2 million in revenue in 2020, well below the NMFS small business size standard for commercial fishing businesses of \$11 million. No single pelagic longline vessel has exceeded \$11 million in revenue in recent years. HMS bottom longline commercial fishing vessels typically earn less revenue than pelagic longline vessels and, thus, would also be considered small entities. Therefore, this final rule will directly affect 95 small entities (the number of active vessels permitted in the pelagic and bottom longline fisheries).

NMFS has determined that the final rule measures will not likely directly affect any small organizations or small government jurisdictions defined under RFA, nor would there be disproportionate economic impacts between large and small entities.

Section 604(a)(5) of the RFA requires Agencies to describe any new reporting, record-keeping and other compliance requirements. This final rule contains revised or new collection-of-information requirements subject to review and approval by the Office of Management and budget (OMB) under the Paperwork Reduction Act (PRA). *See* FRFA in Final Amendment 15 at Section 8.5 for further details. Public reporting burden for these collections of information, including the times for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information, are estimated below (see Paperwork Reduction Act).

Under section 604(a)(6) of the RFA, agencies must describe the steps 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 measures adopted in the final rule and why the agency rejected each one of the other significant alternatives to the rule considered by the agency that affect the impact on small entities. These elements are summarized below. The full text of the FRFA is contained in the Final Amendment 15, Chapter 8.

Evaluation and Modification of Closed Areas

Mid-Atlantic Shark Spatial Management Area

Sub-Alternative A1a, the no action sub-alternative, would maintain the current Mid-Atlantic shark closed area with respect to its spatial and temporal extent. This sub-alternative would likely maintain the recent catch levels and revenues, because the spatial and the temporal extents would remain unchanged and economic impacts are expected to be neutral. Median earnings across the shark research fishery and non-shark research fishery per trip (taking into account operating costs) ranged between \$609 and \$1,192 from 2017 through 2020 in nominal dollars (\$614 to \$1,192 in inflation adjusted 2020 dollars). Estimated total ex-vessel revenue from sharks in 2020 is \$2,311,319. Based on permit and target species, some fishermen direct effort on sharks while others retain only incidentally caught sharks. In 2020, there were 13 active vessels (vessels that had trips where 75 percent of the landings by weight were sharks) targeting sharks in the Atlantic.

Sub-Alternative A1b, the preferred sub-alternative, will maintain the current Mid-Atlantic shark closed area with respect to its spatial extent as a high-bycatch-risk area and shift the temporal extent to November 1 through May 31 from January 1 through July 31 (*i.e.*, same seven-month duration, but shifted two months earlier). The economic impacts of Sub-Alternative A1b are expected to be neutral. There is relatively little bottom longline fishing effort in the Mid-Atlantic region during open time periods, including and

adjacent to the area defined by this spatial management area. Effort is low enough that data regarding totals for the area, even during open time periods, cannot be provided due to confidentiality concerns. This sub-alternative will maintain the recent catch levels and revenues, and there will likely be low levels of data collection from within the spatial management area. Overall revenues from shark research fishery trips are likely to continue in the range noted in Sub-Alternative A1a.

In the Draft Amendment, NMFS preferred Sub-Alternative A1d. While NMFS received several comments in support of Sub-Alternative A1d, NMFS also received comments in opposition to the eastern expansion of the proposed preferred alternative in the Draft Amendment both because of the low fishing effort overall and because of concern that the expansion could impact bottom longline fishermen that hold HMS permits and fish in the area under other FMPs, including those that fish for snowy grouper and blueline tilefish. In part because of these comments, NMFS is no longer preferring Sub-Alternative A1d and is instead preferring Sub-Alternative A1b, thereby reducing impacts on small entities. Based on permit and target species, some fishermen direct effort on sharks while others retain only incidentally caught sharks. In 2020, there were 13 active vessels (vessels that had trips where 75 percent of the landings by weight were sharks) targeting sharks in the Atlantic.

Sub-Alternative A1c would modify both the spatial and temporal extent of the current Mid-Atlantic shark closed area. Specifically, this sub-alternative would extend the eastern boundary of the current Mid-Atlantic shark closed area eastward to the 350-m shelf break and shift the north boundary south to Cape Hatteras (35° 13' 12" N. lat.). The temporal extent would shift to November 1 through May 31 from January 1 through July 31. The economic impacts of Sub-Alternative A1c would be expected to be neutral. There is relatively little bottom longline fishing effort in the Mid-Atlantic region during open time periods, including and adjacent to the area defined by this spatial management

area. Effort is low enough that data regarding totals for the area, even during open time periods, cannot be provided due to confidentiality concerns. This sub-alternative would maintain the recent catch levels and revenues, and there would likely be low levels of data collection from within the spatial management area. Overall revenues from shark research fishery trips would likely continue to be in the range noted in Sub-Alternative A1a. Based on permit and target species, some fishermen direct effort on sharks while others retain only incidentally caught sharks. In 2020, there were 13 active vessels (vessels that had trips where 75 percent of the landings by weight were sharks) targeting sharks in the Atlantic.

Sub-Alternative A1d would modify both the spatial and temporal extent of the current Mid-Atlantic shark closed area. Specifically, this sub-alternative would extend the eastern boundary of the current Mid-Atlantic shark closed area eastward to the 350-m shelf break. The temporal extent would shift to November 1 through May 31 from January 1 through July 31. The economic impacts of Sub-Alternative A1d are expected to be neutral. There is relatively little bottom longline fishing effort in the Mid-Atlantic region during open time periods, including and adjacent to the area defined by this spatial management area. Effort is low enough that data regarding totals for the area, even during open time periods, cannot be provided due to confidentiality concerns. This sub-alternative would maintain the recent catch levels and revenues, and there would likely be low levels of data collection from within the spatial management area. Overall revenues from shark research fishery trips are likely to continue in the range noted in Sub-Alternative A1a. Based on permit and target species, some fishermen direct effort on sharks while others retain only incidentally caught sharks. In 2020, there were 13 active vessels (vessels that had trips where 75 percent of the landings by weight were sharks) targeting sharks in the Atlantic.

Charleston Bump Spatial Management Area

Sub-Alternative A2a, the no action sub-alternative, would maintain the current Charleston Bump closed area with respect to its spatial and temporal extent. NMFS used the target species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on commercial pelagic longline revenue. The estimated combined target species revenue for the pelagic longline fishery overall is \$4,419,261 (2021 real dollars). This sub-alternative would maintain the recent fishing effort, catch levels, and revenues, resulting in direct neutral economic impacts on pelagic longline fishermen. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery.

Sub-Alternative A2b would maintain the current Charleston Bump closed area (high-bycatch-risk area) with respect to its spatial extent and would shift the temporal extent to start on December 1 of one year and end on March 31 of the following year from starting on February 1 and ending on April 30 (*i.e.*, starting two months earlier and ending one month earlier; change from a three-month closure to a four-month closure). NMFS used the target species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on commercial pelagic longline revenue. This sub-alternative would generate less revenue from swordfish and bigeye tuna, but more from yellowfin tuna than the no action sub-alternative. When combined, the total revenue difference between this sub-alternative and the no action sub-alternative is -\$205,237. However, fishermen are unlikely to fish in areas with lower catch rates, so reductions in revenue may not have been realized. Sub-Alternative A2b would likely result in minor adverse to neutral economic impacts. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery, though not all vessels are active in the area so economic impacts would not be equally shared among all active vessels.

Sub-Alternative A2c would modify both the spatial and temporal extent of the current Charleston Bump closed area. This sub-alternative would move the eastern boundary of the current Charleston Bump closed area westward. Specifically, the eastern boundary of this sub-alternative would be formed by the line connecting the northeast corner of the current Charleston Bump closed area for the high-bycatch-risk area ($34^{\circ} 00'$ N. lat., $76^{\circ} 00'$ W. long.) to a point on the current southern border of Charleston Bump closed area ($31^{\circ} 00'$ N. lat., $79^{\circ} 32' 46''$ W. long.). The western boundary of this management area would remain the same as the current western boundary of Charleston Bump closed area. The temporal extent of the high-bycatch-risk area would increase from February 1 to April 30 to include the entire year. The remainder of the current closed area footprint would be designated a low-bycatch-risk area from February 1 through April 30 only. Outside those months, that area would be open to normal pelagic longline fishing. NMFS used the target species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on commercial pelagic longline revenue. This sub-alternative would generate more revenue from swordfish but less from yellowfin and bigeye tuna relative to the no action sub-alternative. The total revenue difference between this sub-alternative and the no action sub-alternative is \$235,863, resulting in moderate positive direct economic impacts in the short- and long-term. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery, though not all vessels are active in the area so economic impacts would not be equally shared among all active vessels.

Sub-Alternative A2d would modify both the spatial and temporal extent of the high-bycatch-risk area of the Charleston Bump spatial management area. Specifically, this sub-alternative would shift the eastern boundary westward 40 nm from the coastline, retain the current northern and southern boundaries of the current Charleston Bump closed area, and retain the current western boundary of Charleston Bump closed area.

The temporal extent of the high-bycatch-risk area would be extended from February 1 through April 30 to October 1 through May 31. The remainder of the current closed area footprint would be designated a low-bycatch-risk area from February 1 through April 30 only. Outside those months, that area would be open to normal pelagic longline fishing. NMFS used the target species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on commercial pelagic longline revenue. This sub-alternative would generate more revenue from swordfish but less from yellowfin and bigeye tuna relative to the no action sub-alternative. The total revenue difference between this sub-alternative and the no action sub-alternative is \$390,532, resulting in moderate positive direct economic impacts in the short- and long-term. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery, though not all vessels are active in the area so economic impacts would not be equally shared among all active vessels.

Sub-Alternative A2e would modify both the spatial and temporal extent of the high-bycatch-risk area of the Charleston Bump spatial management area. Specifically, this sub-alternative would reduce the spatial extent by moving the northern boundary of the current Charleston Bump closed area southward to 33° 12' 39" N. lat. and then shifting the eastern boundary westward to 78° 00' W. long. The western boundary would be consistent with the current western boundary of Charleston Bump closed area. The temporal extent of the high-bycatch-risk area would be eight months (from October 1 through May 31) instead of three months (February 1 through April 30). The remainder of the current closed area footprint would be designated a low-bycatch-risk area from February 1 through April 30 only. Outside those months, that area would be open to normal pelagic longline fishing. NMFS used the target species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on commercial pelagic longline revenue. This sub-alternative would

generate more revenue from swordfish and yellowfin tuna but less from bigeye tuna relative to the no action sub-alternative. The total revenue difference between this sub-alternative and the no action sub-alternative is \$83,590, resulting in minor positive direct economic impacts in the short- and long-term. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery, though not all vessels are active in the area so economic impacts would not be equally shared among all active vessels.

Sub-Alternative A2f, the preferred sub-alternative, will modify the spatial extent of the high-bycatch-risk area relative to the Charleston Bump spatial management area. This sub-alternative will move the eastern boundary of the current Charleston Bump closed area westward, inside of the 100-fathom shelf break, to a diagonal line 45 nm from shore at the northern and southern extents. Specifically, the eastern boundary of this sub-alternative will be formed by a new line from a point on the northern border of the current Charleston Bump closed area (34° 00' 00" N. lat., 76° 58' 52" W. long.) to a point on the southern border of the current Charleston Bump closed area (31° 00' 00" N. lat., 80° 26' 42" W. long.). The western boundary of this management area will remain the same as the western boundary of the current Charleston Bump closed area. The temporal extent would remain unchanged. NMFS used the target species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on commercial pelagic longline revenue. This sub-alternative would generate more revenue from swordfish but less from yellowfin and bigeye tuna relative to the no action sub-alternative. The total revenue difference between this sub-alternative and the no action sub-alternative is \$383,076, resulting in moderate beneficial direct economic impacts in the short- and long-term. Preferred Sub-Alternative A2f is one of the two Charleston Bump spatial management area sub-alternatives with the greatest beneficial direct economic impacts to small entities. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery, though not all vessels are

active in the area so economic impacts would not be equally shared among all active vessels.

East Florida Coast Spatial Management Area

Sub-Alternative A3a, the no action sub-alternative, would maintain the current East Florida Coast closed area in effect with respect to its spatial and temporal extent. NMFS used the target species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on commercial pelagic longline revenue. The estimated annual revenue for the combined target species revenue for the pelagic longline fishery overall is \$4,196,431 (2021 real dollars). This sub-alternative would maintain the recent fishing effort, catch levels, and revenues, resulting in direct neutral economic impacts on pelagic longline fishermen. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery.

Sub-Alternative A3b would modify both the spatial and temporal extent of the current East Florida Coast closed area. Specifically, this sub-alternative consists of two different spatial configurations associated with two temporal periods. From May 1 through November 30 the spatial extent of the high-bycatch-risk area would be the same as the no action alternative. From December 1 through April 30 the spatial extent of the high-bycatch-risk area relative to the current East Florida Coast spatial management area would shift the eastern boundary to 40 nm from the coastline within the northern and southern boundaries of the current East Florida Coast closed area. The remainder of the current closed area footprint would be designated a low-bycatch-risk area from December 1 through April 30. (This date is corrected from the text of the FRFA in Amendment 15, which incorrectly stated that the remainder would be designated a low-bycatch-risk area from May 1 through November 30. This date was described correctly elsewhere in Amendment 15.) NMFS used the target species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on

commercial pelagic longline revenue. This sub-alternative would generate slightly more revenue from swordfish but less from yellowfin tuna and bigeye tuna relative to the no action sub-alternative. The total revenue difference between this sub-alternative and the no action sub-alternative is -\$75,453. However, fishermen are unlikely to fish in portions of the areas with lower catch rates, so reductions in revenue may not be realized. This sub-alternative thus results in minor negative to neutral direct economic impacts in the short- and long-term. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery, though not all vessels are active in the area so economic impacts would not be equally shared among all active vessels.

Sub-Alternative A3c would modify only the spatial extent of the current East Florida Coast closed area (high-bycatch-risk area). Specifically, this sub-alternative would reduce the spatial extent of the high-bycatch-risk area by shifting the eastern boundary of the current closed area to 40 nm from the coastline in areas north of the U.S. – Bahamas EEZ boundary at approximately 28° 17' 24" N. lat. All areas south of that boundary within the current closed area would remain the same relative to the no action alternative. The temporal extent would remain unchanged relative to the no action alternative. The remainder of the current closed area footprint would be designated a low-bycatch-risk area for the entire year. NMFS used the target species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on commercial pelagic longline revenue. This sub-alternative would generate more revenue from swordfish but less from yellowfin and bigeye tuna relative to the no action sub-alternative. The total revenue difference between this sub-alternative and the no action sub-alternative is \$15,145, resulting in minor positive direct economic impacts in the short- and long-term. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery, though not all vessels are active in the area so economic impacts would not be equally shared among all active vessels.

Sub-Alternative A3d would modify only the spatial extent of the current East Florida Coast closed area (high-bycatch-risk area). Specifically, this sub-alternative would reduce the spatial extent of the high-bycatch-risk area by including areas east of the line connecting two points at 31° 00' N. lat., 79° 32' 46" W. long. and 27° 52' 55" N. lat., 79° 28' 34" W. long. at the northern and southern boundaries, respectively, of the current closed area. All areas south of 27° 52' 55" N. lat. within the current closed area would remain the same relative to the no action alternative. The temporal extent would remain unchanged relative to the no action alternative. The remainder of the current closed area footprint would be designated a low-bycatch-risk area for the entire year. NMFS used the target species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on commercial pelagic longline revenue. This sub-alternative would generate more revenue from swordfish but less from yellowfin and bigeye tuna relative to the no action sub-alternative. The total revenue difference between this sub-alternative and the no action sub-alternative is \$37,845, resulting in minor positive direct economic impacts in the short- and long-term. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery, though not all vessels are active in the area so economic impacts would not be equally shared among all active vessels.

Sub-Alternative A3e would modify both the spatial and temporal extent of the current East Florida Coast closed area (high-bycatch-risk area). Specifically, this sub-alternative consists of two different spatial configurations associated with two temporal periods. From June 1 through September 30 the spatial extent of the high-bycatch-risk area would consist of the area within 40 nm of the coastline within the northern and southern boundaries of the current East Florida Coast closed area. During this time period, the remainder of the current closed area footprint would be designated a low-bycatch-risk area. From October 1 through May 31, the spatial extent of the high-

bycatch-risk area would include the area east of the Florida coast to a line connecting two points at 31° 00' N. lat., 79° 32' 46" W. long. and 27° 52' 55" N. lat., 79° 28' 34" W. long. at the northern and southern boundaries, respectively, of the current closed area. As with the June to September area, from October to May the remainder of the current closed area footprint would be designated a low-bycatch-risk area. NMFS used the target species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on commercial pelagic longline revenue. This sub-alternative would generate slightly more revenue from swordfish but less from yellowfin tuna and bigeye tuna relative to the no action sub-alternative. The total revenue difference between this sub-alternative and the no action sub-alternative is -\$8,762. However, fishermen are unlikely to fish in portions of the areas with lower catch rates, so reductions in revenue may not be realized. Thus, this sub-alternative results in minor negative to neutral direct economic impacts in the short- and long-term. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery, though not all vessels are active in the area so economic impacts would not be equally shared among all active vessels.

Sub-Alternative A3f, the preferred sub-alternative, will modify only the spatial extent of the current East Florida Coast closed area (high-bycatch-risk area) and is a combination of sub-alternatives analyzed in the DEIS. This sub-alternative will move the eastern boundary of the high-bycatch-risk area of the East Florida Coast spatial management area westward to a diagonal line beginning inside of the 100-fathom shelf break in the north, extending southeast to a point at the eastern edge of the current closure around Sebastian, Florida. Specifically, the eastern boundary of this sub-alternative will be formed by a new line from a point on the northern border of the current East Florida Coast closed area (31° 00' 00" N. lat., 80° 26' 42" W. long) to a point on the current eastern border of the current East Florida Coast closed area (27° 52' 55" N. lat., 79° 28'

34" W. long.). The temporal extent will remain unchanged. NMFS used the target species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on commercial pelagic longline revenue. This sub-alternative would generate more revenue from swordfish but less from yellowfin and bigeye tuna relative to the no action sub-alternative. The total revenue difference between this sub-alternative and the no action sub-alternative is -\$10,453. However, fishermen are unlikely to fish in portions of the areas with lower catch rates, so reductions in revenue may not be realized. Thus, this sub-alternative results in minor negative to neutral direct economic impacts in the short- and long-term. Sub-Alternative A3f is the preferred modification sub-alternative for the East Florida Coast spatial management area, a change from the Draft Amendment 15 preferred Sub-Alternative A3d. Sub-Alternative A3d was expected to have + \$37,845 total revenue difference compared to the no action alternative, while Sub-Alternative A3f is expected to have a -\$10,453 difference. However, NMFS made the change in its preferred sub-alternative in response to public comments and based on additional analyses. NMFS received comments stating that pelagic longline vessels are unlikely to voluntarily collect data throughout most of the proposed monitoring area (Sub-Alternative A3d) because target catch rates may be low. Commenters indicated that pelagic longline fishermen are more likely to engage in data collection activities if they can access portions of the 100-fathom shelf break. Sub-Alternative A3f provides access to the 100-fathom shelf break. Under either Sub-Alternative A3f or A3d, the impacts are not expected to be significant with regard to overall pelagic longline revenue. Moreover, as explained above, reductions in revenue may not be realized given fishing behavior. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery, though not all vessels are active in the area so economic impacts would not be equally shared among all active vessels.

Sub-Alternative A4a, the no action sub-alternative and the preferred sub-alternative for the area, will maintain the current DeSoto Canyon closed area in effect with respect to its spatial and temporal extent. NMFS used the target species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on commercial pelagic longline revenue. The estimated annual revenue for the combined target species revenue for the pelagic longline fishery overall is \$4,618,912 (2021 real dollars). This sub-alternative will maintain the recent fishing effort, catch levels, and revenues, resulting in neutral direct economic impacts on pelagic longline fishermen. Sub-Alternative A4a is the preferred modification sub-alternative for the DeSoto Canyon spatial management area, a change from the Draft Amendment 15 preferred Sub-Alternative A4d. The preferred sub-alternative was changed in part in response to public comment and other considerations, including pending critical habitat designation for Rice's whale in the Gulf of America. Public comment indicated that expanding the closed area would reduce fishing opportunities inconsistent with goals of the Amendment. Some public comment also indicated concern with the impact of pelagic longline data collection on target and non-target species and other fisheries. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery.

Sub-Alternative A4b would modify both the spatial and temporal extent of the current DeSoto Canyon closed area (high-bycatch-risk area). Specifically, the sub-alternative would maintain the current spatial extent of the DeSoto Canyon spatial management area while changing the timing of the closed areas. Both boxes that make up the DeSoto Canyon closed area would be high-bycatch-risk areas and would remain closed from April 1 to October 31 instead of all year. Additionally, from November to March, the top northwest box would be a high-bycatch-risk area while the bottom southeast box would be designated a low-bycatch-risk area. NMFS used the target

species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on commercial pelagic longline revenue. This sub-alternative would generate more revenue from swordfish but less from yellowfin tuna and similar from bigeye tuna relative to the no action sub-alternative. The total revenue difference between this sub-alternative and the no action sub-alternative is \$38,188, resulting in minor positive direct economic impacts in the short- and long-term. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery, though not all vessels are active in the area so economic impacts would not be equally shared among all active vessels.

Sub-Alternative A4c would modify only the spatial extent of the high-bycatch-risk area of the DeSoto Canyon spatial management area. Specifically, this sub-alternative would reduce the spatial extent of the high-bycatch-risk area by including areas within the current spatial extent that occur north of 27° 00' N. lat. The temporal extent would remain unchanged relative to the no action alternative. The remainder of the current closed area footprint would be designated a low-bycatch-risk area throughout the year. NMFS used the target species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on commercial pelagic longline revenue. This sub-alternative would generate more revenue from swordfish and yellowfin tuna but less from bigeye tuna relative to the no action sub-alternative. The total revenue difference between this sub-alternative and the no action sub-alternative is \$278,627, resulting in moderate positive direct and indirect economic impacts in the short- and long-term. For the reasons explained under Sub-Alternative A4b, economic impacts would not be equally shared among all 82 active vessels.

Sub-Alternative A4d would modify the spatial extent of the high-bycatch-risk area of the DeSoto Canyon spatial management area; the temporal extent would remain unchanged (*i.e.*, area would remain closed year-round). Specifically, this sub-alternative

would shift the spatial extent of the high-bycatch-risk area, putting a parallelogram through the current area. The parallelogram connects southern points 27° 00' N. lat., 86° 30' W. long. and 27° 00' N. lat., 83° 48' W. long., while the northern boundary would be defined by the state water boundary between 88° 24' 58" W. long. and 85° 22' 34" W. long. NMFS used the target species catch estimates and ex-vessel prices for swordfish, yellowfin tuna, and bigeye tuna to estimate the effect of the sub-alternative on commercial pelagic longline revenue. This sub-alternative would generate less revenue from all three target species relative to the no action sub-alternative. The total revenue difference between this sub-alternative and the no action sub-alternative is -\$224,295, resulting in moderate negative direct economic impacts in the short- and long-term. However, fishermen are unlikely to fish in portions of the areas with lower catch rates, so reductions in revenue may not be realized. For the reasons explained under Sub-Alternative A4b, economic impacts would not be equally shared among all 82 active vessels.

Commercial Data Collection

Alternative B1, the no action alternative and a preferred alternative for certain areas, will not implement any new closed area data collection approaches to support HMS spatial management. Because Alternative B1 will not implement any new data collection programs, direct economic impacts to fishermen will be neutral in the short-term. In the long-term, as described above, because there would not be any way to collect data from the spatial management areas and modify them accordingly, the impacts to the species, and therefore the impacts to the fishermen and the economy, are unknown. If the spatial management areas are appropriate and the species and their habitat are protected, fishermen and related industries might experience an increase in revenue as species become more abundant. However, if the spatial management areas finalized in Amendment 15 do not effectively protect the species and their habitat in the long term,

fishermen and related industries might experience a decrease in revenue as the species abundance declines. Alternative B1 is the data collection alternative with the least economic impact. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery. In 2020, there were 13 active vessels (vessels that had trips where 75 percent of the landings by weight were sharks) targeting sharks in the Atlantic with bottom longline gear.

Alternative B2 would create a new research fishery, similar to the existing bottom longline shark research fishery, where permitted commercial longline fishing vessels may apply and a small number would be selected for participation in the spatial management area research fishery. The selected vessels would conduct fishing operations guided by a research plan developed by NMFS and be subject to conditions. Alternative B2 would be a voluntary program, and fishermen would continue to decide whether to fish based on market conditions, fish availability, and the restrictions and conditions of the research fishery. Because of the limited nature of the research fishery, large beneficial economic impacts to fishermen as a result of the opportunity to participate in the fishery are not expected, though there may be some minor beneficial impacts. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery. In 2020, there were 13 active vessels (vessels that had trips where 75 percent of the landings by weight were sharks) targeting sharks in the Atlantic with bottom longline gear.

Alternative B3, a preferred alternative, will implement monitoring areas to allow fishermen to voluntarily fish in portions of previously-closed areas to collect data while following strict effort restrictions and monitoring and reporting requirements. Under this alternative, a specific geographic area within a spatial management area will be designated a monitoring area, and commercial longline vessels who choose to will be permitted to fish inside the monitoring area subject to the conditions laid out in this rule and the other existing applicable regulations (e.g., permit requirements). As part of

Alternative B3, two sub-alternatives are preferred as well: Sub-Alternative B3a (effort caps) and Sub-Alternative B3e (enhanced EM video review). Under Sub-Alternative B3a, NMFS will monitor the number of longline sets occurring in the monitoring area, and when the number of sets reaches the effort cap, will prohibit fishing with the relevant gear type in the monitoring area as described above. Additionally, vessel owner/operators choosing to fish in a monitoring area during a trip will be required to (1) declare that intention via VMS hail out (NMFS clarifies here that this declaration could be before or during the trip) and (2) in addition to current bluefin tuna reporting requirements, report the catch of blue marlin, white marlin, roundscale spearfish, sailfish, leatherback sea turtles, loggerhead sea turtles, and shortfin mako sharks through VMS within 12 hours after the end of a longline set. Sub-Alternative B3e will require that longline vessels that choose to fish for all, or a part of a trip in a monitoring area have 50 percent of the EM data reviewed for that trip, and paid for by the owner of the vessel.

Fishing effort and resulting data collection in the monitoring area(s) will rely on commercial fishermen's willingness to voluntarily fish in the area based on market conditions, fish availability, and the requirements of the monitoring area. Although it is difficult to predict the amount of fishing effort and fish availability that will occur in the monitoring areas, the economic impact is likely to be neutral to minor beneficial.

Alternative B3 does not have the lowest economic impact of the data collection alternatives, but participation is voluntary and could provide some benefits to fishermen.

Access to monitoring areas for data collection will provide the flexibility to fish in locations previously closed to fishing. If access to fishing in monitoring areas decreases the amount of steaming time required to reach the fishing locations, operating costs may be reduced, and a shorter trip duration would facilitate participation in the fishery.

Shorter transit times would also result in reduced fuel consumption. Owners of fishing vessels can often have difficulty finding and hiring crew willing to work on vessels, in

part due to the duration of fishing trips and the impact of fishing trips on crew members' lives. The increased revenue and flexibility associated with voluntarily fishing in monitoring areas will be limited by the associated requirements, such as effort caps or the cost of electronic monitoring. Vessel owners will be required to pay for the expanded review of EM if their vessels choose to fish in monitoring areas: specifically, 50-percent video review of all sets that occur within the monitoring area. The per-set cost for enhanced EM video review will be approximately \$145; thus, for a trip consisting of six sets, the EM video review would cost \$870. Monitoring areas are relevant only to pelagic longline vessels. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery, though not all vessels would choose to fish in monitoring areas so economic impacts would not be equally shared among all active vessels. Under the preferred alternatives, the maximum number of sets across all the monitoring areas totals 630, and the total annual cost across the fleet would be \$91,350. If all the vessels fished equally in the monitoring areas, that equates to approximately \$1,114 per vessel, offset by an unknown amount of cost savings and/or increased revenue.

Under Alternative B4, a preferred alternative, data will be collected from within a spatial management area, which would otherwise be closed, through the issuance of a permit for exempted fishing activities under the scope of § 600.745. As described above, such activities include those permitted through EFPs and SRPs per § 635.32. Such permits will be issued to fishing vessels participating in specific research and exempt them from certain regulatory requirements for specific research during a limited timeframe. Consideration of an application for gear-specific research in closed areas will require incorporation of elements to ensure research activities do not jeopardize conservation needs or result in excessive gear conflicts with other user groups. Fishermen participating in research under an EFP or SRP are likely to be compensated through some combination of commercial target catch sales and research funds. Since the fishermen are

likely to operate in areas of unknown target catch rates, researchers may partially or fully fund fishing activities to ensure trips do not have negative profits. As such, fishermen operating under the permit are unlikely to experience adverse economic impacts nor are they expected to realize larger profits than regular commercial fishing. Thus, Alternative B4 would have neutral economic impacts. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery. In 2020, there were 13 active vessels (vessels that had trips where 75 percent of the landings by weight were sharks) targeting sharks in the Atlantic with bottom longline gear.

Evaluation Timing of Spatial Management Areas

Under Alternative C1, the no action alternative, NMFS would not commit to a schedule to evaluate the spatial management modifications using data collected under the data programs (“B” Alternatives) analyzed in Amendment 15. Evaluations of spatial management areas are administrative in nature and would not have any short-term direct economic impacts on fishermen or indirect impacts on supporting businesses. In the long-term, evaluation of spatial management areas could result in minor beneficial (though not currently quantifiable) economic impacts due to the ability of the agency to adjust spatial management to maximize the ecological and socioeconomic benefits of spatial management areas. This no action alternative has no time period for reviews or factors to consider when reviewing areas and thus provides less clarity regarding the process for reevaluating management areas than Alternatives C2, C3 and C4. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery. In 2020, there were 13 active vessels (vessels that had trips where 75 percent of the landings by weight were sharks) targeting sharks in the Atlantic with bottom longline gear.

Under Alternative C2, a preferred alternative, NMFS will evaluate the four spatial management areas once three years of catch and effort data is finalized and available. Subsequent reviews will occur after three full years of data are available after the

conclusion of the previous evaluation. Evaluations of spatial management areas are administrative in nature and would not have any short-term economic impacts on fishermen or indirect impacts on supporting businesses. In the long-term, evaluation of spatial management areas could result in minor beneficial (though not currently quantifiable) economic impacts due to the ability of the agency to adjust spatial management to maximize the ecological and economic benefits of spatial management areas. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery. In 2020, there were 13 active vessels (vessels that had trips where 75 percent of the landings by weight were sharks) targeting sharks in the Atlantic with bottom longline gear.

Under Alternative C3, NMFS would evaluate the four spatial management areas once five years of catch and effort data is finalized and available. Subsequent reviews would occur after five full years of data are available after the conclusion of the previous evaluation. Evaluations of spatial management areas are administrative in nature and would not have any short-term economic impacts on fishermen. In the long-term, evaluation of spatial management areas could result in minor beneficial (though not currently quantifiable) economic impacts due to the ability of the agency to adjust spatial management to maximize the ecological and economic benefits of spatial management areas. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery. In 2020, there were 13 active vessels (vessels that had trips where 75 percent of the landings by weight were sharks) targeting sharks in the Atlantic with bottom longline gear.

Under Alternative C4, a preferred alternative, NMFS will monitor data collection activities and begin an evaluation if conditions warrant it instead of, or in addition to, scheduled regular evaluation. Evaluations of spatial management areas are administrative in nature and will not have any short-term economic impacts on fishermen or indirect

impacts on supporting businesses. In the long-term, evaluation of spatial management areas could result in minor beneficial (though not currently quantifiable) economic impacts due to the ability of the agency to adjust spatial management to maximize the ecological and economic benefits of spatial management areas. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery. In 2020, there were 13 active vessels (vessels that had trips where 75 percent of the landings by weight were sharks) targeting sharks in the Atlantic with bottom longline gear.

Under Alternative C5, NMFS would set a default end date for a spatial management area and the area and associated restrictions would be removed unless action is taken to maintain or modify the area. Eliminating spatial management areas after a set number of years would provide additional flexibility for fishermen to fish in areas that were previously closed to fishing and therefore increase the total amount of area to pursue target species. Further, the newly open area may include locations with potential advantages such as higher catch rates or lower trips costs. However, a sunset provision may increase the risk of increased interactions with bycatch or incidental catch species, potentially resulting in both adverse ecological and economic impacts depending on the extent of the increased interactions. Thus, Alternative C5 would likely result in minor beneficial economic impacts. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery. In 2020, there were 13 active vessels (vessels that had trips where 75 percent of the landings by weight were sharks) targeting sharks in the Atlantic with bottom longline gear.

Preferred Alternative Packages

The D1 Mid-Atlantic Shark Spatial Management Area Preferred Alternative Package will include implementation of four alternatives and sub-alternatives analyzed among the “A,” “B,” and “C” alternatives. Thus, economic impacts to small entities resulting from implementation of the D1 Preferred Alternative Package will be the

combination of the impacts of the following alternatives and sub-alternatives described above: Sub-Alternative A1b (temporal modification to the area), Alternative B1 (no action data collection), Alternative C2 (three year evaluation), and Alternative C4 (triggered evaluation). Impacts of each of the alternatives are described above and the details are not repeated here. The preferred alternative package will be the combination of the preferred A, B, and C alternatives for the area and the impacts for this preferred alternative package are the combination of the impacts for those alternatives. The preferred alternatives for this area have a range of neutral to minor beneficial economic impacts. In 2020, there were 13 active vessels (vessels that had trips where 75 percent of the landings by weight were sharks) targeting sharks in the Atlantic.

The D2 Charleston Bump Spatial Management Area Preferred Alternative Package will include implementation of four alternatives and sub-alternatives analyzed among the “A,” “B,” and “C” alternatives. Thus, economic impacts to small entities resulting from implementation of the D2 Preferred Alternative Package will be the combination of the impacts of the following alternatives and sub-alternatives described above: Sub-Alternative A2f (spatial modification to the area), Alternative B3 (monitoring area), Alternative B4 (cooperative research EFP), Alternative C2 (three year evaluation), and Alternative C4 (triggered evaluation). Detailed impacts of each of the alternatives are not repeated here. The preferred alternative package will be the combination of the preferred A, B, and C alternatives for the area and the impacts for this preferred alternative package are the combination of the impacts for those alternatives. The preferred alternatives for this area have a range of neutral to moderate beneficial economic impacts. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery, though not all vessels are active in the area so economic impacts will not be equally shared among all active vessels.

The D3 East Florida Coast Spatial Management Area Preferred Alternative Package will include implementation of four alternatives and sub-alternatives analyzed among the “A,” “B,” and “C” alternatives. Thus, economic impacts to small entities resulting from implementation of the D3 Preferred Alternative Package will be the combination of the impacts of the following alternatives and sub-alternatives described above: Sub-Alternative A3f (spatial modification to the area), Alternative B3 (monitoring area), Alternative B4 (cooperative research EFP), Alternative C2 (three year evaluation), and Alternative C4 (triggered evaluation). Detailed impacts of each of the alternatives are not repeated here. The preferred alternative package will be the combination of the preferred A, B, and C alternatives for the area and the impacts for this preferred alternative package are the combination of the impacts for those alternatives. The preferred alternatives for this area have a range of minor adverse to minor beneficial economic impacts. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery, though not all vessels are active in the area so economic impacts would not be equally shared among all active vessels.

The D4 Preferred DeSoto Canyon Spatial Management Area Preferred Alternative Package will include implementation of four alternatives and sub-alternatives analyzed among the “A,” “B,” and “C” alternatives. Thus, economic impacts to small entities resulting from implementation of the D3 Preferred Alternative Package would be the combination of the impacts of the following alternatives and sub-alternatives described above: Sub-Alternative A4a (no modifications to the area), Alternative B1 (no action data collection), Alternative B4 (cooperative research EFP), Alternative C2 (three year evaluation), and Alternative C4 (triggered evaluation). Detailed impacts of each of the alternatives are not repeated here. The preferred alternative package will be the combination of the preferred A, B, and C alternatives for the area and the impacts for this preferred alternative package are the combination of the impacts for those alternatives.

The preferred alternatives for this area have a range of neutral to minor beneficial economic impacts. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery, though not all vessels are active in the area so economic impacts would not be equally shared among all active vessels.

Spatial Management Area Regulatory Provisions

Alternative E1, the no action alternative, would make no changes to the framework adjustment regulations at 50 CFR 635.34(d), which outline the management measures that NMFS may change through regulatory action and factors that must be considered in doing so. Consideration of high-level spatial management design elements or factors are administrative in nature and would not have any short-term or long-term economic impacts on fishermen. Thus, all economic impacts would be neutral. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery. In 2020, there were 13 active vessels (vessels that had trips where 75 percent of the landings by weight were sharks) targeting sharks in the Atlantic with bottom longline gear.

Alternative E2, the preferred alternative, revises the HMS regulations at 50 CFR 635.35(f) to add considerations for review of spatial management areas, including the high-level design of specific objectives, timing of evaluation, data collection and access within spatial management areas. Adding these considerations is administrative in nature and will not have any short-term or long-term economic impacts on fishermen. Thus, all economic impacts will be neutral. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery. In 2020, there were 13 active vessels (vessels that had trips where 75 percent of the landings by weight were sharks) targeting sharks in the Atlantic with bottom longline gear.

Electronic Monitoring

Under Alternative F1, the preferred alternative, NMFS will not require vessel owners to pay for sampling costs of the EM program fleet-wide and will continue to fund

the HMS EM program (both administrative and sampling costs) and utilize contracts with one or more vendors to conduct EM system installation, maintenance, and repair, as well as data storage, video review, and analyses. Since this alternative will not implement any changes, direct economic impacts on pelagic longline fishermen will be neutral.

Alternative F1 is the EM cost allocation with the least economic impact. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery.

Alternative F2 would require vessel owners to pay for 100 percent of HMS pelagic longline EM sampling costs fleet-wide over a three-year period (phased-in) and would include components designed to create a standardized EM program that may be implemented by NOAA certified vendors. In conjunction with the phase-in of sampling costs, this alternative would include four distinct components: (1) vendor requirements, (2) vessel requirements, (3) vessel monitoring plan requirements, and (4) modification of current IBQ Program's EM spatial/temporal requirements. The requirement for vessel owners to pay for EM sampling costs would likely lead to a substantial increase in economic costs for vessel owners. The cost to industry would be estimated to be approximately \$280 per set before mitigation measures (*e.g.*, multiple vendors, changes to EM spatiotemporal requirements) are factored in. On a median length trip of 10 days with 6 sets, the cost would be \$1,680/trip or \$168/sea-day. This cost estimate equates to approximately 19 percent of net revenue on a median trip. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery.

Alternative F3 would remove all of the current HMS EM program requirements applicable to pelagic longline vessels. Bluefin tuna interactions with pelagic longline gear would be monitored using a combination of VMS data, logbook data, observer reports, and landings data from dealers. Since the Agency funds nearly 100 percent of the EM program, removing EM requirements would not have a large economic impact on the fishery. However, the fishery would no longer incur costs associated with activities such

as shipping hard drives and coordinating equipment repair and replacement. Thus, small economic benefits would be likely. From 2018 through 2020, there were 82 active pelagic longline vessels in the fishery.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide (the guide) was prepared and posted to the Amendment 15 website. Copies of this final rule are available from the Office of Sustainable Fisheries, and the guide is available upon request (see ADDRESSES).

Paperwork Reduction Act (PRA)

This final rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) (PRA). The collection of information requirements contained in this final rule were pre-approved by OMB on March 31, 2025.

As part of Amendment 15, this rule contains measures that modify existing reporting, record-keeping, or other compliance requirements that require PRA filing, as described below. This final rule will change the existing requirements for collection-of-information under OMB Control Number 0648-0372, “Electronic Monitoring Systems for Atlantic Highly Migratory Species.” However, due to the existence of concurrent actions for that collection, which came up for renewal before this final rule was published, the collection-of-information requirements in this final rule have been assigned a temporary Control Number, 0648-0816, that will later be merged into Control Number 0648-0372.

This rule establishes two pelagic longline monitoring areas in which pelagic longline vessel owners and/or operators that are approved to fish will be required to report interactions with select bycatch species by set via their vessel monitoring system (VMS) units. We estimate no more than 20 pelagic longline vessel operators will be required to submit a total of 630 bycatch reports each year with no additional recordkeeping and reporting costs except labor costs. These reports will take an estimated 15 minutes to complete for 158 hours of burden per year across the fleet.

Amendment 15 will not alter the fleet-wide EM requirements in support of the bluefin tuna IBQ program. Amendment 15 does, however, implement changes to EM requirements for those choosing to fish in newly designated monitoring areas. Vessel owners voluntarily fishing in monitoring areas will be responsible for arranging and paying for enhanced EM video review. While NMFS will continue to cover EM sampling costs for pelagic longline trips conducted exclusively outside of the new monitoring areas, all owners of pelagic longline vessels that choose to deploy pelagic longline gear within the established monitoring areas will be required to cover the EM sampling costs associated with the additional video review of 50 percent of sets required within those areas. For trips voluntarily conducted wholly or partially within a monitoring area, the vessel owner will have the choice of paying the NMFS-contracted EM provider for the extra video review or using another NMFS-certified EM service provider to provide support for EM requirements including equipment maintenance and replacement and review of video data. To facilitate the availability of NMFS-certified EM service providers, this final rule establishes a process pursuant to which EM vendors apply to be certified by NMFS based on requirements set forth in the regulations. This process is expected to mitigate economic impacts by encouraging additional EM vendors to enter the market. This final rule establishes new reporting requirements for EM vendors; vendors will be required to assist vessel owners in the development of vessel monitoring

plans and provide quarterly EM video review reports, non-compliance reports, and debriefs to NMFS staff as needed.

While the EM vendor provisions of this final rule are new, many requirements of the current EM regulations are not substantively changed by this final rule. Generally, we estimate 20 pelagic longline vessel operators at most would choose to fish within the newly established monitoring areas and be subject to paying for the associated EM monitoring costs, with an estimated maximum total annual cost to the public of \$100,800 in recordkeeping and reporting costs. Under this final rule, vessel owners will be responsible for the full cost of EM video processing for pelagic longline trips voluntarily taken within, or partially within, the new monitoring areas. Currently, pelagic longline vessel operators are required to mail in their EM hard drives after every other trip, which is currently estimated to be 6 times per year and take 1 hour. For those vessels voluntarily fishing within monitoring areas, we estimate they will submit EM hard drives for trips taken within the monitoring areas 3 times per year. We estimate vessel owners would have \$1,680 in recordkeeping and reporting costs each time they submit video data for trips that voluntarily fished within the monitoring areas

We also anticipate up to 4 EM vendors will apply to be certified as EM service providers to the pelagic longline fleet and that no more than 3 vendors will receive approval. EM vendor estimated total annual burden hours would be 671 hours, with \$14,363 estimated total annual recordkeeping and reporting costs. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The estimated time per response varies by item within the suite of information collected, as follows: EM service provider applications, 45 hours; copies of contracts and other documents, 30 minutes; appeals, 4 hours; application revisions, 2 hours; EM certificate of installation, 30 minutes; vessel monitoring plans, 4 hours; quarterly EM review reports,

40 hours; technical assistance, 20 minutes; non-compliance reports, 20 minutes; data storage, 15 minutes; and debriefs of EM staff, 2 hours.

NMFS invites the general public and other Federal agencies to comment on proposed and continuing information collections, which helps NMFS assess the impact of our information collection requirements and minimize the public's reporting burden. Written comments and recommendations for this information collected should be submitted on the following website: <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under Review" or by using the search function and entering either the title of the collection or the OMB Control Number 0648-0816.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: February 12, 2026.

Samuel D. Rauch, III

*Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

Part 635 – ATLANTIC HIGHLY MIGRATORY SPECIES

1. This authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. Amend § 635.2 by:

- a. Removing the definition of “Charleston Bump closed area”;
- b. Adding in alphabetical order definitions of “Charleston Bump Monitoring Area” and “Charleston Bump Pelagic Longline Restricted Area”.
- c. Removing the definition of “DeSoto Canyon closed area”;
- d. Adding in alphabetical order the definition of “DeSoto Canyon Pelagic Longline Restricted Area”;
- e. Removing the definition of “East Florida Coast closed area”;
- f. Adding in alphabetical order definitions of “East Florida Coast Monitoring Area” and “East Florida Coast Pelagic Longline Restricted Area”.
- g. Removing the definitions of “Edges 40 Fathom Contour closed area” and “Madison-Swanson closed area”;
- h. Adding the definition of “Mid-Atlantic Bottom Longline Restricted Area”;
- i. Removing the definitions of “Mid-Atlantic shark closed area”, “Northeastern United States Pelagic Longline Monitoring Area”, “Spring Gulf of America Pelagic Longline Monitoring Area”, and “Steamboat Lumps closed area”;
- j. Adding the definition of “Straight line”; and
- k. Revising the definition of “Vessel Monitoring Plan”.

The additions and revision read as follows:

§ 635.2 Definitions.

* * * * *

Charleston Bump Monitoring Area means the area within the Atlantic Ocean bounded by straight lines by the following coordinates: starting from 34°00'00" N. lat., 76°58'52" W. long.; then proceeding due east to 34°00'00" N. lat., 76°00'00" W. long.; then proceeding due south to 31°00'00" N. lat., 76°00'00" W. long.; then proceeding due

west to 31°00'00" N. lat., 80°26'42" W. long.; and then proceeding northeast in a straight line to the first point at 34°00'00" N. lat., 76°58'52" W. long.

Charleston Bump Pelagic Longline Restricted Area means the area within the Atlantic Ocean that is bounded by the following coordinates: starting at a point intersecting the inner boundary of the U.S. EEZ at 34°00'00" N. lat. (near Wilmington Beach, NC); then proceeding due east to 34°00'00" N. lat., 76°58'52" W. long.; then proceeding southwest in a straight line to 31°00'00" N. lat., 80°26'42" W. long.; then proceeding due west to intersect the inner boundary of the U.S. EEZ at 31°00' N. lat. (near Jekyll Island, GA); and then proceeding northward following the inner boundary of the U.S. EEZ to the first point at 34°00'00" N. lat.

* * * * *

DeSoto Canyon Pelagic Longline Restricted Area means the area within the Gulf of America bounded by straight lines with the following coordinates: starting at 30°00'00" N. lat., 88°00'00" W. long.; then proceeding due east to 30°00'00" N. lat., 86°00'00" W. long.; then proceeding due south to 28°00'00" N. lat., 86°00'00" W. long.; then proceeding due east to 28°00'00" N. lat., 84°00'00" W. long.; then proceeding due south to 26°00'00" N. lat., 84°00'00" W. long.; then proceeding due west to 26°00'00" N. lat., 86°00'00" W. long.; then proceeding due north to 28°00'00" N. lat., 86°00'00" W. long.; then proceeding due west to 28°00'00" N. lat., 88°00'00" W. long.; and then proceeding due north to the first point at 30°00'00" N. lat., 88°00'00" W. long.

* * * * *

East Florida Coast Monitoring Area means the area within the Atlantic Ocean bounded by the following coordinates: starting at 31°00'00" N. lat., 80°26'42" W. long.; then proceeding due east to 31°00'00" N. lat., 78°00'00" W. long.; then proceeding southwest in a straight line until the outer boundary of the EEZ is reached at 28°17'10" N. lat., 79°11'24" W. long.; then following the outer boundary of the EEZ southwest to

27°52'55" N. lat., 79°28'34" W. long.; and then proceeding northwest in a straight line to the first point at 31°00'00" N. lat., 80°26'42" W. long.

East Florida Coast Pelagic Longline Restricted Area means the area within the Atlantic Ocean bounded by the following coordinates: starting at a point that intersects the inner boundary of the U.S. EEZ at 31°00'00" N. lat. (near Jekyll Island, GA); then proceeding due east to 31°00'00" N. lat., 80°26'42" W. long.; then proceeding southeast to 27°52'55" N. lat., 79°28'34" W. long.; then proceeding along the outer boundary of the EEZ to the intersection of the EEZ with 24°00'00" N. lat.; then proceeding due west to 24°00'00" N. lat., 81°47'00" W. long.; then proceeding due north to intersect the inner boundary of the U.S. EEZ at 81°47'00" W. long. near Key West, FL; and then proceeding northward following the inner boundary of the U.S. EEZ to the first point at 31°00'00" N. lat.

* * * * *

Mid-Atlantic Bottom Longline Restricted Area means the Atlantic Ocean area bounded by the following coordinates: starting at a point intersecting the inner boundary of the U.S. EEZ at 35°41'00" N. lat. (just south of Oregon Inlet, North Carolina); then proceeding due east to 35°41'00" N. lat., 74°51'00" W. long.; then proceeding southeast in a straight line to 35°30'00" N. lat., 74°46'00" W. long.; then proceeding southwest in a straight line, roughly following the 55 fathom mark, to 33°51'00" N. lat., 76°24'00" W. long.; then proceeding due west to intersect the inner boundary of the U.S. EEZ at 33°51'00" N. lat., 77°53'00" W. long. (near Cape Fear, North Carolina); and then proceeding northward following the inner boundary of the U.S. EEZ to the first point at 35°41'00" N. lat.

* * * * *

Straight line means in this part:

(1) For regulated areas, a straight line means a geodesic line with the shortest length connecting two or more points. Straight lines will be displayed as a rhumb line on a map with a Mercator-based projection.

(2) For measuring fish, a straight-line measurement means a measurement between two points of the fish that is not made along the curve of the body.

* * * * *

Vessel monitoring Plan (VMP) means an on-board, EM system reference document required by §§ 635.9 and 635.35.

* * * * *

3. In § 635.9, revise paragraphs (a), (b)(1), (d), and (e)(4) and add paragraph (h) to read as follows:

§ 635.9 Electronic monitoring.

(a) *Applicability.* An owner and/or operator of a commercial vessel permitted or required to be permitted in the Atlantic Tunas Longline category under § 635.4, and that has pelagic longline gear on board, is required to have installed and maintain at all times during fishing trips, a fully operational EM system on the vessel, as specified in this section. Vessel owners and/or operators can contact NMFS or a NMFS-approved contractor for more details on procuring an EM system. Owners and/or operators of vessels fishing with pelagic longline gear within the Charleston Bump and East Florida Coast Monitoring Areas while they are effective (see §§ 635.2 and 635.35(d)(3)) must comply with the EM requirements in paragraph (h) of this section.

(b)* * *

(1) NMFS or a NMFS-approved contractor will assess individual Atlantic Tunas Longline permitted vessels that are currently eligible for IBQ shares; install and test all EM systems; provide training to vessel owners or operators or their designees; and develop in consultation with vessel owners or operators or their designees required

operational plans (Vessel Monitoring Plan or VMP) for the EM systems, as described in paragraph (e) of this section.

* * * * *

(d) *Data maintenance, storage, and viewing.* The EM system under paragraph (c) of this section must have the capacity to allow authorized officers of NMFS, the USCG, or Federal or State agencies with enforcement agreements with NMFS (see 16 U.S.C. 1861) to observe the live video on the EM systems monitor and any EM systems data. The EM system used for monitoring areas under paragraph (h) of this section must also have the capacity to allow authorized officers to observe any EM systems data and, if available, live video. Vessel owners or operators must also provide access to EM systems, including the data, upon request, to any NMFS-approved contractor. The certified EM vendor must provide access to data stored by that vendor as provided under paragraph (h)(3)(iii) of this section.

(e) * * *

(4) *Completion of trip(s).* Except when at capacity after one trip or otherwise stated by NMFS in writing, EM hard drives may be used to record up to two trips. Within 48 hours of completing a second fishing trip, or within 48 hours of completing one trip in the case where the hard drive does not have sufficient capacity for a second trip, the vessel owner and/or operator must mail the removable EM system hard drive(s) from the NMFS-provided EM system containing all data to NMFS or NMFS-approved contractor, and must mail hard drive(s), if any, from their certified EM vendor's system to the vendor (see paragraph (h) of this section), according to instructions provided by NMFS. The vessel owner and/or operator must comply with the 48-hour mailing requirement regardless of whether a vessel fished inside or outside of the monitoring areas as defined in § 635.2 and specified in § 635.35(d)(3). The vessel owner and/or operator is responsible for using shipping materials suitable to protect the hard drives (*e.g.*, bubble

wrap), tracking the package, and including a self-addressed mailing label for the next port of call so replacement hard drives can be mailed back to the sender. Prior to departing on any trip, the vessel owner and/or operator must ensure that any EM system hard drive that is installed has the capacity needed to enable data collection and video recording for the entire trip. The vessel owner and/or operator is responsible for contacting NMFS or NMFS-approved contractor if they have requested but not received a replacement hard drive(s) for the NMFS-provided EM system and for informing NMFS or NMFS-approved contractor of any lapse in the hard drive management procedures described in the VMP. Further requirements for EM within monitoring areas are in paragraph (h) of this section.

* * * * *

(h) *Within the Monitoring Areas.* This paragraph applies to the Charleston Bump and East Florida Coast Monitoring Areas as defined under § 635.2 when these areas are effective as specified for each area in § 635.35(d)(3) of this section. In addition to the general EM requirements in this section, owners of vessels fishing with pelagic longline gear within the boundaries of the monitoring areas during the months specified for each area must utilize EM services from NMFS-certified EM vendors and pay for sampling costs. This section sets forth EM cost responsibilities; NMFS' application, approval, and removal process for EM vendors; requirements for NMFS-certified EM vendors providing services pursuant to contracts to vessels owners; and requirements for vessel owners and/or operators. Unless otherwise specified, owners and/or operators of vessels permitted or required to be permitted in the Atlantic Tunas Longline category under § 635.4 must comply with this paragraph and are jointly and severally responsible for their vessel's compliance with this section.

(1) *EM Cost responsibilities.* The owner of a vessel fishing with pelagic longline gear in a monitoring area is responsible for the sampling costs, described in paragraph

(h)(1)(i) of this section, related to EM requirements for the monitoring areas. NMFS is responsible for the administrative costs described in paragraph (h)(1)(ii) of this section. For fishing outside of the monitoring areas, NMFS is responsible for sampling and administrative costs for EM requirements in paragraphs (a) through (g) of this section in support of the IBQ program under § 635.15.

(i) *Sampling costs.* Sampling costs may include, but are not limited to, equipment purchases, leases, and installation; equipment maintenance and upkeep; training for captain and crew; development and implementation of VMPs (see paragraph (h)(3)(i) of this section); data transmittal; video processing, review, and storage; and payment to a NMFS-certified vendor as appropriate for services rendered. The sampling costs for the equipment (*e.g.*, purchases, leases, maintenance) apply only to any equipment that is bought, leased, or installed by or under the direction of an certified EM vendor with whom a vessel owner has a contract (see paragraphs (h)(3) and (4) of this section).

(ii) *Administrative costs.* Administrative costs may include, but are not limited to, program administration support; certification of EM service providers; EM program sample design and performance monitoring; compliance monitoring; data analysis for management and enforcement purposes; and storage of Federal records.

(2) *EM vendor approval and evaluation.* An entity seeking to provide EM services for vessel owners or operators deploying pelagic longline gear in the monitoring areas must submit a complete application to NMFS, at an address designated by NMFS. Once received, NMFS will review the application for completeness and possible approval.

(i) *Contents of application.* Application forms and instructions for their completion are available from NMFS. An application is complete when all requested forms, information, and documentation have been received, including the information described in this paragraph. NMFS will notify the applicant of any deficiency in the

application, including failure to provide information required to be submitted under this part. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned. An application to become a certified EM vendor shall include, but is not limited to, the following:

(A) Identification of the management, organizational structure, and ownership structure of the applicant's business, including identification by name and general function of all controlling management interests in the company, including but not limited to owners, board members, officers, authorized agents, and staff. If the applicant is a corporation, the articles of incorporation must be provided. If the applicant is a partnership, the partnership agreement must be provided.

(B) A list of all physical and electronic mailing addresses and any relevant phone or fax numbers where the owner(s) can be contacted for official correspondence, and the current physical location for each office.

(C) A description of the applicant's ability to carry out the responsibilities and duties of EM vendors under paragraph (h)(3) of this section.

(D) A statement signed under penalty of perjury by an authorized agent of the applicant EM vendor that each owner, board member, officer, and employee of the EM vendor has no conflict of interest as described in paragraph (h)(2)(iii) of this section.

(E) Procedures for hiring and training of competent program staff to carry out EM field services and data services, including procedures to train, and maintain the skills of, EM data processing staff in: use of data processing software; species identification; metadata reporting requirements; data processing procedures; data tracking; and reporting and data upload procedures.

(ii) *Application evaluation and certification.* NMFS shall review and evaluate each complete application submitted under paragraph (h)(2)(i) of this section. A decision

to approve or deny an application shall be made by NMFS within 90 business days of receipt of the complete application by NMFS.

(A) Issuance of approval as an EM vendor shall be based on a determination by NMFS of the applicant's ability to perform the responsibilities and duties under paragraph (h)(3) of this section, as demonstrated in the application information, and the absence of conflict of interest (see paragraph (h)(2)(iii) of this section).

(B) If NMFS approves the application, NMFS will notify the vendor in writing that it has certified the vendor and will provide any information pertinent to its participation in the EM program. NMFS will also add the EM vendor's name to the list of certified EM vendors found on the NMFS website and in any outreach information to the industry.

(C) If NMFS determines that the applicant is unable to perform the responsibilities and duties under paragraph (h)(3) of this section or has conflicts of interest pursuant to paragraph (h)(2)(iii) of this section, NMFS shall deny the application. NMFS shall notify the applicant in writing of the reason for the denial. Within 30 days of the applicant's receipt of the denial notification, an applicant may request reconsideration by submitting additional information to rectify any deficiencies specified in the written denial. If the applicant does not submit additional information within that 30-day period, they must resubmit a new application containing all of the information required under paragraph (h)(2)(i) of this section in order to be reconsidered for the list of certified EM vendors.

(iii) *Limitations on conflict of interest for EM vendors.* Other than providing EM services to vessel owners and/or operators in the fishery, a certified EM vendor and its employees must not:

(A) Have a direct or indirect interest in a fishery managed under Federal regulations, including, but not limited to, a fishing vessel, fish dealer, and/or fishery advocacy group; and

(B) Solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who conducts fishing or fishing related activities that are regulated by NMFS, or who has interests that may be substantially affected by the performance or non-performance of the responsibilities and duties of an EM vendor.

(iv) *Removal from the list of certified vendors.* An EM vendor that fails to meet the responsibilities and duties under paragraph (h)(3) of this section or that is shown to have a conflict of interest as described in paragraph (h)(2)(iii) of this section, shall be notified by NMFS, in writing, that it is subject to removal from the list of certified EM vendors. Such notification shall specify the reasons for the pending removal. Within 30 days of receiving such notification, an EM vendor may submit written evidence to rebut the reasons for removal from the list. Within 30 days of receiving any rebuttal, NMFS shall notify the EM vendor of its decision. If no rebuttal is received by NMFS within the first 30-day period, the EM vendor shall be automatically removed from the list of certified EM vendors. The decision to remove an EM vendor from the list, either after reviewing a rebuttal or if no rebuttal is submitted, shall be the final decision of NMFS and the Department of Commerce. Removal from the list of approved EM vendors does not necessarily prevent an EM vendor from obtaining an approval in the future if a new application is submitted that demonstrates that the reasons for removal are remedied.

(3) *Responsibilities and duties of EM vendors.* To maintain a certified EM vendor status, an EM vendor must demonstrate an ability to provide or support pelagic longline vessel owners and/or operators with the following services:

(i) *VMP for the Monitoring Areas.* A certified EM vendor must, in consultation with the vessel owner with whom the vendor has a contract for EM services in the monitoring areas, develop a required VMP for EM systems, as described in paragraph (e) of this section. The VMP is only valid when there is an existing, signed contract between a certified EM vendor and the vessel owner; the vendor and vessel owner have signed and dated the VMP; and NMFS or NMFS-approved contractor has signed and dated the VMP to indicate that the plan is approved. A VMP that is produced in compliance with the EM requirements outside of the monitoring areas may suffice in the monitoring areas if the vessel owner has a contract with the same NMFS-approved contractor that is providing EM services across the fleet for all trips.

(ii) *EM installation and maintenance for the Monitoring Areas.* A certified EM vendor is responsible for ensuring that an EM system, as specified in the VMP, is installed and tested and has the following capabilities: camera(s) with sufficient resolution to determine the number and species of fish caught; camera(s) placed in a location(s) that provides clear, unobstructed views of the area(s) where pelagic longline gear is retrieved and of catch being removed from hooks and placed on the vessel; lighting sufficient to clearly illuminate individual fish; ability to initiate video recording at the time gear retrieval starts and to continue recording until catch is removed from the hooks and placed on the vessel; a GPS receiver that allows for collection of location coordinates, heading, and velocity data of the vessel; a monitor that allows for the monitoring of the state of the EM system; a method of protecting all electronic data, including video and metadata and sensor data if hydraulic and gear sensors are installed, from tampering; and a method of collecting and sending all electronic data, including video and metadata and, if applicable, sensor data, to the EM vendor for review. In addition, each EM system must comply with the requirements in paragraph (d) of this section including the capacity to allow authorized officers to observe any EM systems

data and, if available, live video. The EM vendor may determine that the NMFS-provided EM system already on the vessel (see § 635.9(a) through (c)) is compatible for use in the monitoring areas (*e.g.*, compatible with the vendor's equipment, software, data transmission, data storage, *etc.*). Alternatively, the EM vendor may determine that only a part of, or none of, the NMFS-provided EM system is compatible for use and may, therefore, require the vessel owner to buy or lease EM system components. In both situations, the certified EM vendor is responsible for ensuring the EM system meets the capabilities described above and enables the vendor to meet its requirements under paragraph (h)(3) of this section. The certified EM vendor is also responsible for assisting the vessel owner and/or operator in meeting all the requirements listed in paragraph (h)(4) of this section and for providing training to vessel owners or operators or their designees on how to use the EM system. After confirming that the EM system meets the capabilities described above, is properly installed, has been tested, and training and a VMP are completed, the EM vendor will provide a Certificate of Installation to the vessel owner or operator. If the EM system stops working properly, the EM vendor will assist the vessel owner and/or operator in repairing or replacing malfunctioning equipment and returning the system to working order. If the malfunctioning parts are NMFS-provided, the EM vendor will work with NMFS to have the equipment repaired or replaced and to return the system to working order. If the EM vendor is notified by the vessel owner or operator that the EM system has stopped functioning properly while the vessel is at sea and in the monitoring areas, the EM vendor will notify NMFS and provide instructions to the vessel owner and/or operator consistent with NMFS' guidance.

(iii) *Data integrity and storage requirements.* A certified EM vendor must receive, access, and store video data consistent with the VMP and paragraphs (d) and (h)(3) of this section; store video and metadata for a minimum of 2 years after the date

received; and provide access to stored data upon request by any authorized officers of NMFS.

(iv) *Video review requirements.* A certified EM vendor must:

(A) Ensure that all EM data processing staff has been trained in species identification consistent with the procedures submitted under paragraph (h)(2)(i)(E) of this section;

(B) At NMFS' request, conduct additional video review to verify catch reports, and provide information for regulatory, enforcement, or for other management purposes; and

(C) On a calendar year quarterly basis, receive all of the electronic data, including video and metadata and, if applicable, sensor data, collected by the EM systems on all vessels for which the certified EM vendor has a contract for EM services. Once all data are received, the certified EM vendor must review 50 percent of the sets submitted from the vessels that fished in the Charleston Bump Monitoring Area and 50 percent of the sets submitted from the vessels that fished in the East Florida Coast Monitoring Areas (see § 635.2 for definitions of the areas), when these areas are effective as specified in § 635.35(d)(3). NMFS may evaluate video review rates on a regular basis and modify them as appropriate through a framework adjustment per § 635.34.

(v) *Reporting requirements.* Each calendar year, a certified EM vendor must submit quarterly reports to NMFS for vessels for which the EM vendor has existing, signed contracts. Quarter 1 (January through March) report is due on or before June 30. Quarter 2 (April through June) report is due on or before September 30. Quarter 3 report (July through September) is due on or before December 31. Quarter 4 report (October through December) is due on or before March 31. The reports must include a list of vessels that submitted EM data for review; a list of vessels that did not submit EM data for review; the location, date, and time of gear retrieval of all sets submitted for review;

identification of the sets reviewed (vessel name, location, date, and time of gear retrieval of all sets) for the quarterly report; species caught and amounts (retained and discarded) from the sets reviewed and disposition (dead or alive) of catch that is discarded; information on any technical difficulties (including poor video, no video, unreviewable video, misaligned camera angles, and any other issues that prevent effective video review of catch); information on how technical difficulties were addressed on the vessel and during the video review process; and/or any questions video reviewers may have about whether the vessel's fishing practices are compliant with applicable regulations. The metadata from all submitted trips and sets must accompany these quarterly reports. As appropriate, NMFS may respond to questions about fishing practices or possible regulatory violations in order to assist video reviewers and EM vendors in understanding the regulations and the EM program.

(4) *Vessel owner and operator requirements.* The owner of a vessel with pelagic longline gear on board and fishing with pelagic longline gear in an effective monitoring area, as described at the beginning of paragraph (h) of this section, must obtain EM services (see paragraph (h)(3)) of this section from a NMFS-certified EM vendor (see paragraph (h)(2) of this section). The vessel owner is responsible for the sampling costs (see paragraph (h)(1) of this section). For any trip where fishing with pelagic longline gear may occur in an effective monitoring area, the vessel owner and/or operator must:

(i) Declare intent to fish with pelagic longline in a monitoring area through hail-out via VMS unit prior to departing on the trip as required in § 635.69(e)(2));

(ii) Have an EM system on board with the capabilities required under paragraph (h)(3)(ii) of this section. The vessel owner and/or operator must monitor and maintain the EM system in working condition, which includes ensuring the proper continuous functioning of the EM system to meet the required capabilities under paragraph (h)(3)(ii) of this section;

(iii) Collect video data during hauling activities via an installed and working EM system and, if hydraulic and gear sensors are installed, collect sensor data during the duration of the trip;

(iv) Have on board and available for inspection an approved VMP pursuant to paragraph (h)(3)(i) of this section and ensure that all of the requirements, specifications and protocols outlined in the VMP have been implemented by the date specified in the VMP;

(v) Have on board and available for inspection a Certificate of Installation in accordance with paragraph (h)(3)(ii) of this section;

(vi) Prior to departing on the trip, activate the EM system and ensure the installed EM system has the capacity needed to enable data collection and video recording for the entire trip. The vessel cannot enter a monitoring area if the EM system does not have the capacity needed;

(vii) Prior to departing on the trip, test the functionality of the system and contact their certified EM vendor if the system is not functioning properly. If the EM system is not functioning properly, the vessel is prohibited from deploying pelagic longline sets in any effective monitoring area, as described in the beginning of paragraph (h) of this section. The vessel may still fish outside the monitoring area(s) if the EM system installed by the NMFS-approved contractor for use outside the monitoring areas functions properly consistent with paragraph (f) of this section. The vessel owner or operator must work with the EM vendor pursuant to paragraph (h)(3)(ii) of this section to correct any malfunctions with the EM system before fishing in the monitoring areas can resume;

(viii) Provide access to the EM system, including the data, as provided under paragraph (d) of this section;

(ix) During the trip, ensure the proper continuous functioning of all aspects of the EM system as required under paragraphs (h)(3)(ii) and (h)(4)(i) through (viii) of this section, including that: the EM system must remain powered on for the duration of each fishing trip in an effective monitoring area, as described at the beginning of paragraph (h) of this section; cameras must be functioning and cleaned routinely; the hydraulic and gear sensors, if installed, must be operational; the GPS signal must be functioning; and the EM system components must not be tampered with. If the vessel owner or operator becomes aware that the EM system is not functioning properly while the vessel is fishing in a monitoring area, the vessel owner or operator must contact their EM vendor and NMFS and follow the instructions given. Such instructions may include but are not limited to returning to port until the EM system is repaired. Once in port, an EM system must be functioning properly (*e.g.*, repaired, reinstalled, or replaced) consistent with the installation requirements under paragraph (h)(3)(ii) of this section before the vessel may fish with pelagic longline within an effective monitoring area;

(x) Ensure that all fish that are caught, even those that are released, are handled in a manner that enables the video system to record such fish, and ensure that interactions occur in accordance with relevant regulations and the operational procedures outlined in the VMP;

(xi) Ensure that each retained fish is placed on the standardized reference grid (see paragraph (c)(7) of this section) in view of cameras in accordance with the operational procedures outlined in the VMP; and

(xii) At the completion of a trip or as agreed to with the certified vendor, submit all electronic data, including video and metadata and, if applicable, sensor data, to the certified EM vendor, consistent with the requirements in the VMP.

4. Amend § 635.21 by:

a. Removing paragraph (a)(3);

- b. Redesignating paragraph (a)(4) as (a)(3);
- c. Removing paragraph (b)(2);
- d. Redesignating paragraphs (b)(3) and (4) as (b)(2) and (3), respectively;
- e. Revising paragraph (c); and
- f. Revising paragraph (d).

The revisions read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(c) *Pelagic Longlines*. (1) If a vessel issued or required to be issued a permit under this part:

(i) Has bottom longline gear on board and is in one of the areas designated under § 635.35(c) or (d)(3), the vessel may not, at any time, possess or land any pelagic species listed in table 2 of appendix A to this part in excess of 5 percent, by weight, of the total weight of pelagic and demersal species possessed or landed, that are listed in tables 2 and 3 of appendix A to this part.

(ii) Has pelagic longline gear on board, persons aboard that vessel may not possess, retain, transship, land, sell, or store silky sharks, oceanic whitetip sharks, or scalloped, smooth, or great hammerhead sharks.

(iii) Has pelagic longline gear on board, persons aboard that vessel are required to release unharmed, to the extent practicable, porbeagle sharks that are alive at the time of haulback.

(iv) Has pelagic longline gear on board, persons aboard that vessel are required to promptly release in a manner that causes the least harm any shortfin mako shark that is alive at the time of haulback, consistent with the requirements specified at paragraphs (a)(1) and (c)(5)(i) of this section. When the commercial retention limit specified at § 635.24(a)(4)(v) is greater than zero, any shortfin mako shark that is dead at the time of

haulback may be retained provided the electronic monitoring system is installed and functioning in compliance with the requirements at § 635.9.

(2) If pelagic longline gear is on board a vessel issued or required to be issued a LAP under this part, persons aboard that vessel may not fish or deploy any type of fishing gear in the NED at any time unless, the vessel complies with paragraphs (c)(2)(i) through (iii) and (c)(4) of this section:

(i) The vessel is limited to possessing on board and/or using only 18/0 or larger circle hooks with an offset not to exceed 10 degrees. The outer diameter of the circle hook at its widest point must be no smaller than 2.16 inches (55 mm) when measured with the eye on the hook on the vertical axis (y-axis) and perpendicular to the horizontal axis (x-axis), and the distance between the circle hook point and the shank (*i.e.*, the gap) must be no larger than 1.13 inches (28.8 mm). The allowable offset is measured from the barbed end of the hook and is relative to the parallel plane of the eyed-end, or shank, of the hook when laid on its side. The only allowable offset circle hooks are those that are offset by the hook manufacturer. If green-stick gear, as defined at § 635.2, is on board, a vessel may possess up to 20 J-hooks. J-hooks may be used only with green-stick gear, and no more than 10 hooks may be used at one time with each green-stick gear. J-hooks used with green-stick gear may be no smaller than 1.5 inch (38.1 mm) when measured in a straight line over the longest distance from the eye to any other part of the hook;

(ii) The vessel is limited, at all times, to possessing on board and/or using only whole Atlantic mackerel and/or squid bait, except that artificial bait may be possessed and used only with green-stick gear, as defined at § 635.2, if green-stick gear is on board;

(iii) All sea turtle bycatch mitigation measures specified in paragraph (c)(4) of this section, except for the mitigation measures specified in paragraph (c)(4)(iii)(B) and (C) of this section, as these paragraphs specify bait, hook size, and hook type requirements for vessels fishing outside the NED as defined in § 635.2. Instead, persons

on board the vessel must comply with hook size and type requirements in paragraph (c)(2)(i) of this section and bait restrictions in paragraph (c)(2)(ii) of this section.

(3) In the Gulf of America, pelagic longline gear may not be fished or deployed from a vessel issued or required to have been issued a LAP under this part with live bait affixed to the hooks; and, a person aboard a vessel issued or required to have been issued a LAP under this part that has pelagic longline gear on board may not possess live baitfish, maintain live baitfish in any tank or well on board the vessel, or set up or attach an aeration or water circulation device in or to any such tank or well. For the purposes of this section, the Gulf of America includes all waters of the U.S. EEZ west and north of the boundary stipulated at 50 CFR 600.105(c).

(4) The owner and operator of a vessel permitted or required to be permitted under this part and that has pelagic longline gear on board must undertake the following sea turtle bycatch mitigation measures:

(i) *Possession and use of required mitigation gear.* Required sea turtle bycatch mitigation gear, which NMFS has approved under paragraph (c)(4)(iv) of this section as meeting the minimum design standards specified in paragraphs (c)(4)(i)(A) through (M) of this section, must be carried onboard, and must be used to disengage any hooked or entangled sea turtles in accordance with the handling requirements specified in paragraph (c)(4)(ii) of this section.

(A) *Long-handled line clipper or cutter.* Line cutters are intended to cut high test monofilament line as close as possible to the hook, and assist in removing line from entangled sea turtles to minimize any remaining gear upon release. NMFS has established minimum design standards for the line cutters, which may be purchased or fabricated from readily available and low-cost materials. The LaForce line cutter and the Arceneaux line clipper are models that meet these minimum design standards. One long-handled line

clipper or cutter meeting the minimum design standards, and a set of replacement blades, are required to be onboard. The minimum design standards for line cutters are as follows:

(1) A protected and secured cutting blade. The cutting blade(s) must be capable of cutting 2.0-2.1 mm (0.078 in.-0.083 in.) monofilament line (400-lb test) or polypropylene multistrand material, known as braided or tarred mainline, and must be maintained in working order. The cutting blade must be curved, recessed, contained in a holder, or otherwise designed to facilitate its safe use so that direct contact between the cutting surface and the sea turtle or the user is prevented. The cutting instrument must be securely attached to an extended reach handle and be easily replaceable. One extra set of replacement blades meeting these standards must also be carried on board to replace all cutting surfaces on the line cutter or clipper.

(2) An extended reach handle. The line cutter blade(s) must be securely fastened to an extended reach handle or pole with a minimum length equal to, or greater than, 150 percent of the height of the vessel's freeboard, or 6 feet (1.83 m), whichever is greater. It is recommended, but not required, that the handle break down into sections. There is no restriction on the type of material used to construct this handle as long as it is sturdy and facilitates the secure attachment of the cutting blade.

(B) *Long-handled dehooker for internal hooks.* A long-handled dehooking device is intended to remove internal hooks from sea turtles that cannot be boated. It should also be used to engage a loose hook when a turtle is entangled but not hooked, and line is being removed. The design must shield the point of the hook and prevent the hook from re-engaging during the removal process. One long-handled device, meeting the minimum design standards as described below, is required on board to remove internal hooks. The minimum design standards are as follows:

(1) *Hook removal device.* Marine-grade stainless steel (316 L or 304 L) or similar (*i.e.*, designed to resist corrosion during exposure to saltwater) must be used for all

components. The hook removal device must be constructed of three-sixteenths to five-sixteenths of an inch (4.76-7.94 mm) marine-grade stainless steel and have a dehooking end no larger than 1 7/8-inch (4.76-cm) outside diameter. The device must securely engage and control the leader while shielding the point of the hook to prevent the hook from re-engaging during removal. The hook removal device must not have any unprotected points (including blunt ones), as these could cause injury to the mouth and esophagus during hook removal. The device must be of a size appropriate to secure the range of hook sizes and styles used in the pelagic longline fishery targeting swordfish and tuna.

(2) *Extended reach handle.* The dehooking end must be securely fastened to an extended reach handle or pole with a minimum length equal to or greater than 150 percent of the height of the vessel's freeboard, or 6 ft (1.83 m), whichever is greater. It is recommended, but not required, that the handle break down into sections. The handle must be sturdy and strong enough to facilitate the secure attachment of the hook removal device.

(C) *Long-handled dehooker for external hooks.* A long-handled dehooker, meeting the minimum design standards, is required on board for use on externally hooked sea turtles that cannot be boated. The long-handled dehooker for internal hooks described in paragraph (c)(4)(i)(B) of this section meets this requirement. The minimum design standards are as follows:

(1) *Hook removal device.* Marine-grade stainless steel (316 L or 304 L) or similar (*i.e.*, designed to resist corrosion during exposure to saltwater) must be used for all components on any style of long-handled dehooker. If utilizing a wire-style dehooker (*e.g.*, a pigtail or J-style dehooker), the long-handled dehooker must be constructed of three-sixteenths to five-sixteenths of an inch (4.76-7.94 mm) marine-grade stainless steel. All long-handled dehookers must have a dehooking end no larger than 1-7/8-inch (4.76-

cm) outside diameter. Smaller dehooking ends may be appropriate when encountering small turtles. A 5-inch (12.7-cm) tube T-handle of 1-inch (2.54-cm) outside diameter is recommended, but not required. The design must be such that a fish hook can be rotated out, without pulling it out at an angle, as described in paragraphs (c)(4)(ii)(B) and (C) of this section, and in the NMFS-SEFSC TM-735 Careful Release Protocols. The dehooking end must be blunt with all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the pelagic longline fishery targeting swordfish and tuna.

(2) *Extended reach handle.* The dehooking end must be securely fastened to an extended reach handle or pole. The handle must be a minimum length equal to or greater than 150 percent of the height of the vessel's freeboard or 6 ft (1.83 m), whichever is greater.

(D) *Long-handled device to pull an "inverted V."* This tool is used to pull a "V" in the fishing line when implementing the "inverted V" dehooking technique, as described in paragraph (c)(4)(ii)(C) of this section and in the NMFS-SEFSC TM-735 Careful Release Protocols, for disentangling and dehooking entangled sea turtles. One long-handled device to pull an "inverted V", meeting the minimum design standards, is required on board. If a 6-ft (1.83-m) or longer J-style dehooker is used to comply with paragraph (c)(4)(i)(C) of this section, it will also satisfy this requirement. Minimum design standards are as follows:

(1) *Hook end.* This device, such as a standard boat hook, gaff, or long-handled J-style dehooker must be constructed of stainless steel or aluminum. A sharp point, such as on a gaff hook, is to be used only for holding the monofilament fishing line and must never contact the sea turtle.

(2) *Extended reach handle.* The handle must have a minimum length equal to or greater than 150 percent of the height of the vessel's freeboard, or 6 ft (1.83 m),

whichever is greater. The handle must be sturdy and strong enough to facilitate the secure attachment of the gaff hook.

(E) *Boating the turtle.* A device to bring incidentally caught sea turtles aboard the vessel must be carried on board the vessel to facilitate safe handling of sea turtles by allowing them to be brought on board for fishing gear removal without causing further injury to the animal. Sea turtles must never be brought on board without a net or hoist. Using the involved fishing gear to raise the turtle can result in serious injury. The following devices are options to meet this requirement.

(1) *Dipnet.* The dipnet must have a sturdy net hoop of at least 31 inches (78.74 cm) of inside diameter and a bag depth of at least 38 inches (96.52 cm) to accommodate turtles below 3 ft (91.44 cm) carapace length. The bag mesh openings may not exceed 3 inches (7.62 cm) bar measure, defined as the non-stretched distance between a side knot and a bottom knot of a net mesh (also known as the square mesh measurement). There must be no sharp edges or burrs on the hoop, or where the hoop is attached to the handle. The dipnet hoop must be securely fastened to an extended reach handle or pole with a minimum length equal to, or greater than, 150 percent of the height of the vessel's freeboard, or at least 6 ft (1.83 m), whichever is greater. The handle must be made of a rigid material strong enough to facilitate the sturdy attachment of the net hoop and able to support a minimum of 100 lb (45.36 kg) without breaking or significant bending or distortion. It is recommended, but not required, that the extended reach handle break down into sections.

(2) *Collapsible hoop net.* The collapsible hoop net frame must be constructed of stiff wire cable that coils to compress the size for storage. This device must have a minimum 31-inch (78.74-cm) inside diameter and a bag depth of at least 38 inches (96.52 cm) to accommodate turtles up to 3 ft (91.44 cm) in straight carapace length. The bag mesh openings may not exceed 3 inches (7.62 cm) bar measure, defined as the non-

stretched distance between a side knot and a bottom knot of a net mesh (also known as the square mesh measurement). There must be no sharp edges or burrs on the hoop. The device must be capable of lifting at least 100 lb (45.36 kg). No extended reach handle is needed on this type of net, although the rope handle length must be 6 ft (1.83 m) or 150 percent of freeboard height, whichever is greater.

(3) *Turtle hoist.* A turtle hoist consists of a supportive frame with mesh netting. A turtle hoist can be used to bring turtles on board that cannot be boated using a dipnet or collapsible hoop net. The two sizes that meet the design standards are described in paragraphs (c)(4)(i)(E)(3)(i) and (ii) of this section. The size of the turtle hoist used should match the size of turtles encountered.

(i) *Small turtle hoist.* The frame must be capable of supporting at least 100 lb (45.36 kg), with a minimum inside diameter of 31 inches (78.74 cm) to accommodate turtles up to 3 ft (91.44 cm) straight carapace length. This frame can be hinged or otherwise designed so that it can be folded for ease of storage as long as it can be quickly reassembled. If the frame is designed to fold or break down for storage, the hardware must be self-contained (*e.g.*, barrel bolts on both sides to lock down frame with no loose pieces like through bolts and nuts), and there must be no sharp edges. The shape of the frame does not matter (*e.g.*, round, square, rectangular, or a “U-shaped” or “J-shaped” basket) as long as it meets the required specifications and securely contains the turtle. The frame may be constructed of heavy-duty stainless steel tubing welded into shape or polyvinyl chloride (PVC) pipe (recommended 2-inch (5.08-cm) diameter with a required minimum strength of Schedule 40) connected and glued at the corners using 90° elbow fittings. PVC pipes can be drilled to facilitate water drainage for ease of hauling. A shallow bag net with mesh openings not to exceed 3 × 3 inches (7.62 × 7.62 cm) (bar measure) must be securely affixed to the frame, and lines (*e.g.*, polypropylene, nylon, polyester) must be securely attached to each corner to control and retrieve the frame and

net. The lines can be operated using a pulley system if available on the vessel. No rigid extended reach handle is needed on this type of net, although the rope handle length must be 6 ft (1.83 m) or 150 percent of freeboard height, whichever is greater.

(ii) *Large turtle hoist.* The large turtle hoist must be capable of lifting a minimum of half a ton. The structure of the hoist must consist of three circular aluminum bar rings (top, middle, and bottom) connected with mesh and spokes. The hoist should be designed so that when on board, the turtle is suspended above the deck on a platform of mesh netting (8 mm, 6.5 inches (16.51 cm) stretch knotless 600-ply polyethylene netting) stretched across the middle ring. The turtle should be contained within a webbing fence (at least 18 inches (45.72 cm) high) which is supported by the top and middle rings and made of 3 mm, 4.7 inches (11.94 cm) stretch mesh braided polyethylene webbing, and wrapped along the top ring with 1/2-inch (1.27-cm) polypropylene rope. The top and middle rings (1 3/4 inch (4.45 cm) 50 series aluminum round bar) should be 7 ft and 6 inches (2.29 m) in diameter. The bottom ring (1 1/2 inches (3.81 cm) 50 series aluminum round bar) should be 4 ft (1.22 m) in diameter. The middle and bottom rings are connected using 12 spoke braces (approximately 23 inches (58.42 cm) long, 1 inch (2.54 cm) round 50 series aluminum round bar or 6061 T6 1 inch (2.54 cm) Schedule 40 pipe) angled at approximately 25° and welded in place with an appropriate welding wire (5052, 6061 or 3003 wire). Rubber cookies (8 × 2 1/2 inches (20.32 × 6.35 cm), 4 per each of 12 sections) may be used on the middle ring to facilitate rolling the hoist up the side of the vessel and to cushion impact of the hoist against the side of the vessel. When deployed in rough seas, the hoist should be held to the side of the vessel to prevent swinging and collision with the vessel hull. A 3- or 4-point bridle is attached to the top ring using pair links and three-quarter-inch (1.91-cm) nylon 3-strand line, and a hydraulic lift is used to bring hoist aboard.

(F) *Cushion/support device for boated turtles.* Each vessel is required to carry a device that effectively cushions and supports a sea turtle while it is on board. The device used must be appropriately sized to support the sea turtle encountered. The device must be puncture proof (*e.g.*, no inner tubes, pool toys) and cannot be a primary safety device (*e.g.*, primary life ring or life jacket dedicated to personnel on board). Examples that meet current design standards include:

(1) *A standard automobile tire.* A standard (not from a truck or heavy equipment) passenger vehicle tire not mounted on a rim and free of exposed steel belts, is effective for supporting a turtle in an upright orientation while it is on board. An assortment of sizes is recommended to accommodate a range of turtle sizes. If the turtle is too large for the tire, it must be contained and supported on an alternative cushioned surface.

(2) *Boat cushion.* A standard boat cushion can effectively support smaller turtles.

(3) *Large turtle hoist.* This style is recommended for supporting large turtles such as leatherbacks, which need a supportive platform while on board. The large turtle hoist described in paragraph (c)(4)(i)(E)(3)(ii) of this section satisfies this requirement.

(G) *Short-handled dehooker for internal hooks.* One short-handled device, meeting the minimum design standards, is required on board for removing hooks that are internal or ingested. This dehooker is designed to remove internal hooks from boated sea turtles. It can also be used on external hooks or hooks in the front of the mouth.

Minimum design standards are as follows:

(1) *Hook removal device.* Unless otherwise noted, all components must be made of marine-grade stainless steel (316 L or 304 L). If utilizing a wire-style dehooker (*e.g.*, a pigtail or J-style dehooker), the hook removal device must be constructed of three-sixteenths to five-sixteenths of an inch (4.76-7.94 mm) marine-grade stainless steel (316 L or 304 L) rod and have a dehooking end no wider than $1\frac{7}{8}$ inches (4.76 cm) total width. The end must allow the hook to be secured and the point to be shielded without re-

engaging during the removal process. It may not have any unprotected terminal points or sharp edges, as this could cause injury to the esophagus during hook removal. A sliding PVC bite block must be used to protect the beak and facilitate hook removal if the turtle bites down on the dehooking device. The bite block should be constructed of a three-quarter- to 1-inch (1.91-2.54 cm) inside diameter high-impact plastic cylinder (*e.g.*, Schedule 80 PVC) that is 4-6 in (10.16-15.24 cm) long to allow for at least 5 inches (12.7 cm) of slide along the shaft. The device must be of a size appropriate to secure the range of hook sizes and styles used in the pelagic longline fishery targeting swordfish and tuna.

(2) *Handle length.* The handle must be 16-24 inches (40.64-60.96 cm) in length, with a tube T-handle, wire loop handle, or similar type of handle that is approximately 4-6 inches (10.16-15.24 cm) long.

(H) *Short-handled dehooker for external hooks.* One short-handled dehooker for external hooks, meeting the minimum design standards, is required on board. The short-handled dehooker for internal hooks required to comply with paragraph (c)(4)(i)(G) of this section will also satisfy this requirement. Minimum design standards are as follows:

(1) *Hook removal device.* Marine-grade stainless steel (316 L or 304 L) must be used for all components. If utilizing a wire-style dehooker (*e.g.*, a pigtail or J-style dehooker), the dehooker must be constructed of three-sixteenths to five-sixteenths of an inch (4.76-7.94 mm) marine-grade stainless steel (316 L or 304 L) and have a dehooking end no wider than $1\frac{7}{8}$ inches (4.76 cm) total width. The design must be such that a hook can be rotated out without pulling it out at an angle. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the pelagic longline fishery targeting swordfish and tuna.

(2) *Handle length.* The handle must be 16-24 inches (40.64-60.96 cm) long with a tube T-handle, wire loop handle, or similar type of handle that is approximately 4-6 inches (10.16-15.24 cm) long.

(I) *Long-nose or needle-nose pliers.* One pair of long-nose or needle-nose pliers is required to be on board. Such pliers must be a minimum of 11 inches (27.94 cm) in length, and should be constructed of stainless steel material or other material designed to resist corrosion during exposure to saltwater. The pliers can be used to remove embedded hooks from the turtle's flesh or hooks in the front of the mouth. The pliers are also useful for holding PVC splice couplings in place as mouth openers.

(J) *Bolt cutters.* One pair of bolt cutters is required on board. Such bolt cutters must be a minimum of 14 inches (35.56 cm) in total length, with a minimum of 4 inches (10.16 cm) long blades that are a minimum of 2 1/4 inches (5.72 cm) wide, when closed, and with 10- to 13-inch (25.40- to 33.02-cm) long handles. Such bolt cutters must be able to cut hard metals, such as stainless or carbon steel hooks, up to one-quarter of an inch (6.35 mm) in diameter, and they must be capable of cutting through the hooks used on a vessel. The required bolt cutters may be used to cut hooks to facilitate their removal. They should be used to cut off the eye or point of a hook, so that it can safely be pushed through a sea turtle without causing further injury. They should also be used to cut off as much of the hook as possible, when the remainder of the hook cannot be removed.

(K) *Monofilament line cutters.* One pair of monofilament line cutters is required on board. Such monofilament line cutters must be a minimum of 6 inches (15.24 cm) in overall length. The blades must be 1 inch (2.54 cm) in length and five-eighths inch (1.59 cm) wide, when closed, and are recommended to be coated with Teflon (a trademark owned by E.I. DuPont de Nemours and Company Corp.). The line cutters must be used to remove netting, entangling line, or fishing line as close to the eye of the hook as possible, if the hook is swallowed or cannot be removed safely.

(L) *Mouth openers/mouth gags.* Required mouth openers and mouth gags are used to open sea turtle mouths, and to keep them open when removing internal hooks from boated turtles. They must allow access to the hook or line without causing further injury

to the turtle. Design standards are included in the item descriptions. At least 2 of the 7 different types of mouth openers/gags described below are required on board the vessel:

(1) *A block of hard wood.* Placed in the corner of the jaw, a block of hard wood may be used to gag open a turtle's mouth. A smooth block of hard wood of a type that does not splinter (*e.g.*, maple) with rounded edges must be sanded smooth. The dimensions should be appropriately sized for the size of turtles that may be caught or approximately 10 × 0.75 × 0.75 inches (25.40 × 1.91 × 1.91 cm). A long-handled, wire shoe brush with a wooden handle, and with the wires removed, is an inexpensive, effective and practical mouth-opening device that meets these requirements. A wooden hammer handle (without the head attached) may also be suitable, provided it is made from wood that does not splinter under pressure (*e.g.*, ash, maple).

(2) *A set of three canine mouth gags.* Canine mouth gags are highly recommended to hold a turtle's mouth open, because the gag locks into an open position to allow for hands-free operation after it is in place. A set of canine mouth gags must include one of each of the following sizes: small (5 in; 12.7 cm), medium (6 in; 15.24 cm), and large (7 in; 17.78 cm). They must be constructed of stainless steel.

(3) *A set of two sturdy dog chew bones.* Placed in the corner of a turtle's jaw, canine chew bones are used to gag open a sea turtle's mouth. Required canine chews must be constructed of durable nylon, zylene resin, or thermoplastic polymer, and strong enough to withstand biting without splintering. To accommodate a variety of turtle beak sizes, a set must include one large (5.5-8 inches (13.97-20.32 cm) in length) and one small (3.5-4.5 inches (8.89-11.43 cm) in length) canine chew bone.

(4) *A set of two rope loops covered with hose.* A set of two rope loops covered with a piece of hose or flexible tubing can be used as a mouth opener, and to keep a turtle's mouth open during hook and/or line removal. A required set consists of two 3-ft (91.44-cm) lengths of poly braid rope (three-eighths of an inch (9.53 mm) in diameter is

suggested), each covered with an 8-inch (20.32-cm) section of half-inch (1.27-cm) or three-quarter-inch (1.91-cm) light-duty garden hose or flexible tubing, and each tied into a loop. The upper loop of rope covered with hose is secured on the upper beak to give control with one hand, and the second piece of rope covered with hose is secured on the lower beak to give control with the user's foot.

(5) *A hank of rope.* Placed in the corner of a turtle's jaw, a hank of rope can be used to gag open a sea turtle's mouth. A 6-ft (1.83-m) lanyard with a minimum of three-sixteenths-inch (4.76-mm) braided soft rope may be folded to create a hank, (or a coiled or looped bundle), of rope. Any size braided soft rope is allowed; however, it must create a hank of approximately 2-4 inches (5.08-10.16 cm) in thickness.

(6) *A set of four PVC splice couplings.* PVC splice couplings can be positioned inside a turtle's mouth to allow access to the back of the mouth for hook and line removal. They are to be held in place with the needle-nose pliers. To ensure proper fit and access, a required set must consist of the following Schedule 40 PVC splice coupling sizes: 1 inch (2.54 cm), 1¼ inches (3.18 cm), 1½ inches (3.81 cm), and 2 inches (5.08 cm).

(7) *A large avian oral speculum.* A large avian oral speculum provides the ability to hold a turtle's mouth open and to control the head with one hand, while removing a hook with the other hand. The avian oral speculum must be 9 inches (22.86 cm) long and constructed of three-sixteenths-inch (4.76-mm) wire diameter surgical stainless steel (Type 304). It must be covered with 8 inches (20.32 cm) of clear vinyl tubing (five-sixteenths-inch (7.94-mm) outside diameter, three-sixteenths-inch (4.76-mm) inside diameter), friction tape, or similar material to pad the surface.

(M) *Turtle control devices.* One turtle control device, as described in paragraph (c)(4)(i)(M)(1) or (2) of this section, and meeting the minimum design standards, is required onboard and must be used to secure a front flipper of the sea turtle so that the

animal can be controlled at the side of the vessel. It is strongly recommended that a pair of turtle control devices be used to secure both front flippers when crew size and conditions allow. Minimum design standards consist of:

(1) *Turtle tether and extended reach handle.* Approximately 15-20 ft (4.57-6.10 m) of half-inch (1.27 cm) hard lay negative buoyancy line or similar is used to make an approximately 30-inch (76.2-cm) loop to slip over the flipper. The line is fed through a three-quarter-inch (1.91-cm) inside diameter fair lead, eyelet, or eyebolt at the working end of a pole and through a three-quarter-inch (1.91-cm) eyelet or eyebolt in the midsection. A half-inch (1.27-cm) quick release cleat holds the line in place near the end of the pole. A final three-quarter-inch (1.91-cm) eyelet or eyebolt should be positioned approximately 7 inches (17.78 cm) behind the cleat to secure the line, while allowing a safe working distance to avoid injury when releasing the line from the cleat. The line must be securely fastened to an extended reach handle or pole with a minimum length equal to, or greater than, 150 percent of the height of the vessel's freeboard, or a minimum of 6 ft (1.83 m), whichever is greater. There is no restriction on the type of material used to construct this handle, as long as it is sturdy. The handle must include a tag line to attach the tether to the vessel to prevent the turtle from breaking away with the tether still attached.

(2) *Ninja sticks and extended reach handles.* Approximately 30-35 ft (9.14-10.67 m) of one-half to five-eighths of an inch (1.27-1.59 cm) of soft lay polypropylene line, nylon line or similar line is fed through two PVC conduit, fiberglass, or similar sturdy poles and knotted using an overhand (recommended) knot at the end of both poles or otherwise secured. There should be approximately 18-24 inches (45.72-60.96 cm) of exposed rope between the poles to be used as a working surface to capture and secure the flipper. Knot the line at the ends of both poles to prevent line slippage if they are not otherwise secured. The remaining line is used to tether the apparatus to the boat unless an

additional tag line is used. Two lengths of sunlight resistant three-quarter-inch (1.91-cm) schedule 40 PVC electrical conduit, fiberglass, aluminum, or similar material should be used to construct the apparatus with a minimum length equal to, or greater than, 150 percent of the height of the vessel's freeboard, or 6 ft (1.83 m), whichever is greater.

(ii) *Handling and release requirements—(A) Sea turtle bycatch mitigation gear and protocols.* Sea turtle bycatch mitigation gear, as required by paragraphs (c)(4)(i)(A) through (D) of this section, must be used to disengage any hooked or entangled sea turtles that cannot be brought on board. Sea turtle bycatch mitigation gear, as required by paragraphs (c)(4)(i)(E) through (M) of this section, must be used to facilitate access, safe handling, disentanglement, and hook removal or hook cutting of sea turtles that can be brought on board, where feasible. Sea turtles must be handled, and bycatch mitigation gear must be used, in accordance with the careful release protocols and handling/release guidelines specified in paragraphs (c)(4)(ii)(B) and (C) of this section, and in accordance with the onboard handling and resuscitation requirements specified in 50 CFR 223.206(d)(1).

(B) *Boated turtles.* When practicable, active and unresponsive sea turtles must be brought on board, with a minimum of injury, using a dipnet, collapsible hoop net, or turtle hoist, as required by paragraph (c)(4)(i)(E) of this section. All turtles less than 3 ft (91.44 cm) carapace length must be boated, if sea conditions permit. Turtles must be lifted and carried by holding the front and back of the carapace (shell) or by holding the shell by both sides. A turtle must be cradled while holding the shell and base of the flippers. A turtle must never be lifted or dragged by the flippers when it is brought on board, handled on deck, or released.

(I) *Preparation for gear and hook removal.* A boated turtle must be placed on a device that effectively cushions and supports a sea turtle while it is on board, as described in paragraph (c)(4)(i)(F) of this section. The turtle must be in an upright orientation to

immobilize it and facilitate gear removal. Then, it should be determined if the hook can be removed without causing further injury.

(2) *External hook removal.* All externally embedded hooks must be removed, unless hook removal would result in further injury to the turtle. No attempt to remove a hook should be made if it has been swallowed and the insertion point is not visible, or if it is determined that removal would result in further injury.

(3) *Irremovable hook protocol.* If a hook cannot be removed, as much line as possible must be removed from the turtle using monofilament cutters as required by paragraph (c)(4)(i)(K) of this section, and the hook should be cut as close as possible to the insertion point before releasing the turtle, using bolt cutters as required by paragraph (c)(4)(i)(J) of this section.

(4) *Removable hook protocol.* If a hook can be removed, an effective technique may be to cut off either the barb, or the eye, of the hook using bolt cutters, and then to slide the hook out. When the hook is visible in the front of the mouth, a mouth-opener, as required by paragraph (c)(4)(i)(L) of this section, may facilitate opening the turtle's mouth and a gag may facilitate keeping the mouth open. Short-handled dehookers for internal hooks, long-nose pliers, or needle-nose pliers, as required by paragraphs (c)(4)(i)(G) through (I) of this section, should be used to remove visible hooks from the mouth that have not been swallowed, as appropriate.

(5) *Gear removal.* As much gear as possible must be removed from the turtle without causing further injury prior to its release. Refer to the careful release protocols and handling/release guidelines required in this paragraph (c)(4)(ii)(B), and the handling and resuscitation requirements specified in 50 CFR 223.206(d)(1), for additional information.

(C) *Non-boated turtles.* If a sea turtle is too large, or hooked in a manner that precludes safe boating without causing further damage or injury to the turtle, sea turtle

bycatch mitigation gear required by paragraphs (c)(4)(i)(A) through (D) of this section must be used to disentangle sea turtles from fishing gear and disengage any hooks, or to clip the line and remove as much line as possible from a hook that cannot be removed, prior to releasing the turtle, in accordance with the protocols specified in this paragraph.

(1) *Preparation for hook removal.* Non-boated turtles should be brought close to the boat and provided with time to calm down. Then, it must be determined whether the hook can be removed without causing further injury. A front flipper or flippers of the turtle must be secured with an approved turtle control device from the list specified in paragraph (c)(4)(i)(M) of this section.

(2) *Hook removal protocol.* All externally embedded hooks must be removed, unless hook removal would result in further injury to the turtle. No attempt should be made to remove a hook if it has been swallowed, or if it is determined that removal would result in further injury. If the hook cannot be removed and/or if the animal is entangled, as much line as possible must be removed prior to release, using a line cutter as required by paragraph (c)(4)(i)(K) of this section. If the hook can be removed, it must be removed using a long-handled dehooker as required by paragraph (c)(4)(i) of this section.

(3) *Gear removal.* Without causing further injury, as much gear and line as possible must be removed from the turtle prior to its release. Refer to the careful release protocols and handling/release guidelines required in this paragraph (c)(4)(ii)(C), and the handling and resuscitation requirements specified in 50 CFR 223.206(d)(1) for additional information.

(iii) *Gear modifications.* The following measures are required of vessel owners and operators to reduce the incidental capture and mortality of sea turtles:

(A) *Gangion length.* The length of any gangion on vessels that have pelagic longline gear on board and that have been issued, or are required to have, a swordfish, shark, or Atlantic Tunas Longline category LAP for use in the Atlantic Ocean including

the Caribbean Sea and the Gulf of America must be at least 10 percent longer than any floatline length if the total length of any gangion plus the total length of any floatline is less than 100 meters.

(B) *Bait.* Vessels fishing outside of the NED, as defined at § 635.2, that have pelagic longline gear on board, and that have been issued or are required to be issued a LAP under this part, are limited, at all times, to possessing on board and/or using only whole finfish and/or squid bait except that if green-stick gear is also on board, artificial bait may be possessed, but may be used only with green-stick gear.

(C) *Hook size and type.* Vessels fishing outside of the NED, as defined at § 635.2, that have pelagic longline gear on board, and that have been issued or are required to be issued a LAP under this part are limited, at all times, to possessing on board and/or using only 16/0 or larger non-offset circle hooks or 18/0 or larger circle hooks with an offset not to exceed 10°. These hooks must meet the criteria listed in paragraphs (c)(4)(iii)(C)(1) through (3) of this section. A limited exception for the possession and use of J-hooks when green-stick gear is on board is described in paragraph (c)(4)(iii)(C)(4) of this section.

(1) For the 18/0 or larger circle hooks with an offset not to exceed 10°, the outer diameter of an 18/0 circle hook at its widest point must be no smaller than 2.16 inches (55 mm), when measured with the eye of the hook on the vertical axis (y-axis) and perpendicular to the horizontal axis (x-axis). The distance between the hook point and the shank (*i.e.*, the gap) on an 18/0 circle hook must be no larger than 1.13 inches (28.8 mm). The allowable offset is measured from the barbed end of the hook, and is relative to the parallel plane of the eyed-end, or shank, of the hook when laid on its side. The only allowable offset circle hooks are those that are offset by the hook manufacturer.

(2) For the 16/0 or larger non-offset circle hooks, the outer diameter of a 16/0 circle hook at its widest point must be no smaller than 1.74 inches (44.3 mm), when

measured with the eye of the hook on the vertical axis (y-axis) and perpendicular to the horizontal axis (x-axis). The distance between the hook point and the shank (*i.e.*, the gap) on a 16/0 circle hook must be no larger than 1.01 inches (25.8 mm).

(3) Between the months of January through June of any given calendar year in the Gulf of America, all circle hooks must also be constructed of corrodible round wire stock that is no larger than 3.65 mm in diameter. For the purposes of this section, the Gulf of America includes all waters of the U.S. EEZ west and north of the boundary stipulated at 50 CFR 600.105(c).

(4) If green-stick gear, as defined at § 635.2, is also on board, a vessel that has pelagic longline gear on board, may possess up to 20 J-hooks. J-hooks may be used only with green-stick gear, and no more than 10 hooks may be used at one time with each green-stick gear. J-hooks used with green-stick gear may be no smaller than 1.5 inch (38.1 mm) when measured in a straight line over the longest distance from the eye to any other part of the hook.

(iv) *Approval of sea turtle bycatch mitigation gear.* NMFS will file with the Office of the Federal Register for publication an initial list of required sea turtle bycatch mitigation gear that NMFS has approved as meeting the minimum design standards specified under paragraph (c)(4)(i) of this section. Other devices proposed for use, such as line clippers or cutters or dehookers, as specified under paragraphs (c)(4)(i)(A) through (C), (G), and (H) through (K) of this section, must be approved as meeting the minimum design standards before being used. NMFS will examine new devices, as they become available, to determine if they meet the minimum design standards, and will file with the Office of the Federal Register for publication notification of any new devices that are approved as meeting the standards.

(5) The owner or operator of a vessel permitted or required to be permitted under this part and that has pelagic longline gear on board must undertake the following shark bycatch mitigation measures:

(i) *Handling and release requirements.* As safely as practicable, any hooked or entangled sharks that are not being retained must be released using dehookers or line clippers or cutters. If using a line clipper or cutter, the gangion must be cut so that less than three feet (91.4 cm) of line remains attached to the hook.

(ii) *Fleet communication and relocation protocol.* The owner or operator of any vessel that catches a dusky shark must, as quickly as practicable, broadcast the location of the dusky shark interaction over the radio to other fishing vessels in the surrounding area. Subsequent fishing sets by that vessel on that trip must be at least 1 nmi from the reported location of the dusky shark catch. Vessel owners and operators are encouraged to move the vessel further away than 1 nmi if conditions (*e.g.*, water temperature, depth, tide, *etc.*) indicate that moving a greater distance is warranted to avoid additional dusky shark interactions.

(d) *Bottom longlines.* (1) The owner and operator of a vessel required to be permitted under this part and that has bottom longline gear on board must undertake the following bycatch mitigation measures:

(i) *Possession and use of required mitigation gear.* The equipment listed in paragraph (c)(4)(i) of this section must be carried on board and must be used to handle, release, and disentangle hooked or entangled sea turtles, prohibited sharks, or smalltooth sawfish in accordance with requirements specified in paragraph (d)(1)(ii) of this section.

(ii) *Handling and release requirements.* Sea turtle bycatch mitigation gear, as required by paragraph (d)(1)(i) of this section, must be used to disengage any hooked or entangled sea turtle as stated in paragraph (c)(4)(ii) of this section. This mitigation gear should also be employed to disengage any hooked or entangled species of prohibited

sharks as listed under heading D, Prohibited Sharks, of table 1 of appendix A to this part, any hooked or entangled species of sharks that exceed the retention limits as specified in § 635.24(a), and any hooked or entangled smalltooth sawfish. In addition, if a smalltooth sawfish is caught, the fish should be kept in the water while maintaining water flow over the gills and the fish should be examined for research tags. All smalltooth sawfish must be released in a manner that will ensure maximum probability of survival, but without removing the fish from the water or any research tags from the fish.

(iii) *Fleet communication and relocation protocol.* The owner or operator of any vessel that catches a dusky shark must, as quickly as practicable, broadcast the location of the dusky shark interaction over the radio to other fishing vessels in the surrounding area. Subsequent fishing sets by that vessel on that trip must be at least 1 nmi from the reported location of the dusky shark catch. Vessel owners and operators are encouraged to move the vessel further away than 1 nmi if conditions (*e.g.*, water temperature, depth, tide, *etc.*) indicate that moving a greater distance is warranted to avoid additional dusky shark interactions.

(2) If a vessel issued or required to be issued a permit under this part is in one of the areas designated under § 635.35(b) or (e)(2) and has pelagic longline gear on board, the vessel may not, at any time, possess or land any demersal species listed in table 3 of appendix A to this part in excess of 5 percent, by weight, of the total weight of pelagic and demersal species possessed or landed, that are listed in tables 2 and 3 of appendix A to this part.

(3) Vessels that have bottom longline gear on board and that have been issued, or are required to have been issued, a directed shark limited access permit under § 635.4(e) must have only circle hooks as defined at § 635.2 on board.

(4) If a vessel issued or required to be issued a permit under this part has bottom longline gear on board persons aboard that vessel are required to promptly release in a

manner that causes the least harm, any shortfin mako shark that is alive at the time of haulback.

* * * * *

5. In § 635.24,

(a) Revise the introductory text

(b) Revise (a)(4)(i), and (iii).

The revisions read as follows:

§ 635.24 Commercial retention limits for sharks, swordfish, and BAYS tunas.

The retention limits in this section are subject to the quotas and closure provisions in §§ 635.27 and 635.28, the gear operation and deployment restrictions in § 635.21, and the spatial management area restrictions in § 635.35.

* * * * *

(a) * * *

(4) * * *

(i) Except as provided in § 635.22(c)(7), a person who owns or operates a vessel that has been issued a directed shark LAP may retain, possess, land, or sell pelagic sharks if the pelagic shark fishery is open per §§ 635.27 and 635.28. Shortfin mako sharks may be retained by persons aboard vessels using pelagic longline, bottom longline, or gillnet gear only if NMFS has adjusted the commercial retention limit above zero pursuant to paragraph (a)(4)(v) of this section and only if the shark is dead at the time of haulback and consistent with the provisions of §§ 635.21(c)(1), (d)(4), and (f)(6) and 635.22(c)(7).

* * * * *

(iii) Consistent with paragraph (a)(4)(ii) of this section, a person who owns or operates a vessel that has been issued an incidental shark LAP may retain, possess, land, or sell no more than 16 SCS and pelagic sharks, combined, per vessel per trip, if the respective fishery is open per §§ 635.27 and 635.28. Of those 16 SCS and pelagic sharks

per vessel per trip, no more than 8 shall be blacknose sharks. Shortfin mako sharks may be retained only under the commercial retention limits by persons using pelagic longline, bottom longline, or gillnet gear only if NMFS has adjusted the commercial retention limit above zero pursuant to paragraph (a)(4)(v) of this section and only if the shark is dead at the time of haulback and consistent with the provisions at § 635.21(c)(1), (d)(4), and (f)(6). If the vessel has also been issued a permit with a shark endorsement and retains a shortfin mako shark, recreational retention limits apply to all sharks retained and none may be sold, per § 635.22(c)(7).

* * * * *

6. In § 635.32, revise paragraphs (a)(2) and (c)(1), and add paragraphs (g)(3) and (h)(6) to read as follows:

§ 635.32 Specifically authorized activities.

* * * * *

(a) * * *

(2) Activities subject to the provisions of this section include, but are not limited to: scientific research resulting in, or likely to result in, the take, harvest, or incidental mortality of Atlantic HMS; exempted fishing and educational activities; programs under which regulated species retained in contravention to otherwise applicable regulations may be donated through approved food bank networks; or chartering arrangements. Such activities must be authorized in writing and are subject to all conditions specified in any letter of acknowledgment, EFP, scientific research permit (SRP), display permit, chartering permit, or shark research permit issued in response to requests for authorization under this section.

* * * * *

(c) * * *

(1) For activities consistent with the purposes of this section and § 600.745(b)(1) of this chapter, other than scientific research conducted from a scientific research vessel, NMFS may issue EFPs.

* * * * *

(g) * * *

(3) NMFS may issue EFPs and SRPs to conduct research and collect information specifically regarding the spatial management areas described in § 635.35(c) and (d)(3). In addition to all of the information required under § 600.745(b)(2) of this chapter, an application for an EFP or SRP to conduct research and collect information regarding the spatial management areas should include the objective of the research; a description of the how the researchers intend to verify that the catch and all of the terms and conditions of the EFP or SRP are being met (*e.g.*, via a working EM system, authorized researchers, NMFS-approved observers); and a description of how the research is being conducted. As with other EFPs or SRPs, any EFP or SRP provides authorization only for the time and area, retention limits, and gear specified in the permit, and based upon the terms and conditions set forth in the permit and as acknowledged and agreed to by the permit holder under § 600.745(b)(4) of this chapter. The terms and conditions for a spatial management area EFP or SRP may require reporting more frequently than is described in paragraph (h)(1) of this section.

* * * * *

(h) * * *

(6) EFPs, SRPs, display permits, chartering permits, and shark research permits may be revoked, suspended, or modified at any time, do not confer any right to engage in activities beyond those authorized by the permit, and do not confer any right of compensation to the holder.

* * * * *

7. In § 635.34, revise paragraphs (a), (b), and (d) to read as follows:

§ 635.34 Adjustment of management measures.

(a) NMFS may adjust the EM video review rates in the monitoring areas, as specified in § 635.9; the IBQ shares or resultant allocations for bluefin tuna, as specified in § 635.15; catch limits for bluefin tuna, as specified in § 635.23; the overall, regional, and/or sub-regional quotas for bluefin tuna, sharks, swordfish, and northern albacore tuna as specified in § 635.27; the retention limits for sharks, as specified at § 635.24; the regional retention limits for Swordfish General Commercial permit holders, as specified at § 635.24; the marlin landing limit, as specified in § 635.27(d); the minimum sizes for Atlantic blue marlin, white marlin, and roundscale spearfish as specified in § 635.20; and the annual effort cap thresholds and the apportionment of those thresholds as specified in § 635.35(d).

(b) In accordance with the framework procedures in the 2006 Consolidated HMS FMP, NMFS may establish or modify for species or species groups of Atlantic HMS the following management measures: Maximum sustainable yield or optimum yield based on the latest stock assessment or updates in the SAFE report; domestic quotas; recreational and commercial retention limits, including target catch requirements; size limits; fishing years or fishing seasons; shark fishing regions, or regional and/or sub-regional quotas; species in the management unit and the specification of the species groups to which they belong; species in the prohibited shark species group; classification system within shark species groups; permitting and reporting requirements; workshop requirements; the IBQ shares or resultant allocations for bluefin tuna; administration of the IBQ program (including but not limited to requirements pertaining to leasing of IBQ allocations, regional or minimum IBQ share requirements, IBQ share caps (individual or by category), permanent sale of shares, NED IBQ rules, *etc.*); *de minimis* bluefin tuna quota set-aside for new entrants and associated requirements, process and conditions; spatial

management area restrictions; allocations among user groups; gear prohibitions, modifications, or use restrictions; effort restrictions; observer coverage requirements; EM requirements and administration of the EM program including requirements both inside and outside of the monitoring areas; essential fish habitat; and actions to implement ICCAT recommendations, as appropriate.

* * * * *

(d) Consistent with the Magnuson-Stevens Act, the FMP, and other applicable law, when considering a framework adjustment to add, change, or modify measures related to spatial management areas, NMFS will consider, but is not limited to, the following: any Endangered Species Act related issues, concerns, or requirements, including applicable Biological Opinions; bycatch rates of protected species, prohibited HMS, or non-target species both within the specified or potential spatial management areas and throughout the fishery; bycatch rates and post-release mortality rates of bycatch species associated with different gear types; new or updated landings, bycatch, and fishing effort data; evidence or research indicating that changes to fishing gear and/or fishing practices can significantly reduce bycatch; effectiveness of EM video review rates; social and economic impacts; and the practicability of implementing new or modified spatial management areas compared to other bycatch reduction options. If the species is an ICCAT managed species, NMFS will also consider the overall effect of the U.S. catch on that species. Additionally, NMFS may also consider relevant factors listed at § 635.35(f).

8. Add § 635.35 to Subpart C to read as follows:

§ 635.35 Spatial management area restrictions.

(a) *General Restrictions.* Spatial management areas are the gear restricted and monitoring areas in paragraphs (b) through (d) of this section and other areas in paragraph (e) of this section. Coordinates for gear restricted areas and monitoring areas

are set forth in the definitions under § 635.2. If a vessel issued or required to be issued a LAP under this part has pelagic or bottom longline gear on board and is in a gear restricted area (see paragraphs (b) and (c) of this section), a monitoring area (see paragraphs (d) of this section), or other restricted area (see paragraph (e) of this section), it is a rebuttable presumption that any fish on board such a vessel were taken with pelagic or bottom longline gear in the area except where such fish is aboard a vessel transiting such an area with all fishing gear stowed appropriately. Longline gear is stowed appropriately if all gangions and hooks are disconnected from the mainline and are stowed on or below deck, hooks are not baited, and all buoys and weights are disconnected from the mainline and drum (buoys may remain on deck).

(b) *Bottom Longline Gear Restricted Area.* If bottom longline gear is on board a vessel issued or required to be issued a permit under this part, persons aboard that vessel may not fish or deploy any type of fishing gear in the Mid-Atlantic Bottom Longline Gear Restricted Area from November 1 of one calendar year through May 31 of the following calendar year, unless persons on board the vessel are authorized to conduct research under a shark research permit, an EFP, or a SRP as specified at § 635.32.

(c) *Pelagic Longline Gear Restricted Areas.* If pelagic longline gear is on board a vessel issued or required to be issued a permit under this part:

(1) In the Charleston Bump Gear Restricted Area, persons aboard that vessel may not fish or deploy any type of fishing gear from February 1 through April 30, unless persons aboard the vessel are authorized to conduct research under an EFP or a scientific research permit as specified at § 635.32.

(2) In the East Florida Coast Gear Restricted Area, persons aboard that vessel may not fish or deploy any type of fishing gear at any time, unless persons aboard the vessel are authorized to conduct research under an EFP or SRP as specified at § 635.32.

(3) In the DeSoto Canyon Gear Restricted Area, persons aboard that vessel may not fish or deploy any type of fishing gear at any time, unless persons aboard the vessel are authorized to conduct research under an EFP or SRP as specified at § 635.32.

(4) In the NED, persons aboard that vessel may not fish or deploy any type of fishing gear at any time unless they comply with the requirements under § 635.21(c)(2) and (4) or are authorized to conduct research under an EFP or SRP as specified at § 635.32.

(d) *Pelagic Longline Monitoring Areas*—(1) *General restrictions*. Persons aboard a vessel with pelagic longline gear on board that is issued or required to be issued a permit under this part may, consistent with other applicable sections of this part, fish in a monitoring area (see paragraph (d)(4) of this section) when the monitoring area is effective if:

(i) The vessel has a functioning EM system consistent with § 635.9(h);

(ii) The vessel has a functioning VMS unit and can submit the set reports as required under § 635.69(e)(5);

(iii) The vessel owner and/or operator has notified NMFS via the vessel's VMS unit of their intent to fish in a monitoring area as required under § 635.69(e)(2); and

(iv) The monitoring area has not been closed as specified under paragraph (d)(4) of this section).

(2) *Effort caps*. Each monitoring area is designated an annual number of pelagic longline sets called an effort cap (see paragraph (d)(3) of this section). NMFS may apportion the effort cap (see § 635.34(a)) in a monitoring area across monthly, quarterly, or other time frames, if there are indications that fishing effort is temporally clustered, distribution of effort caps across the effective period of the monitoring area would further support data collection and conservation protection goals, or other considerations, which may include some of the factors described in paragraph (f) of this section. NMFS would

review, among other things, current and historical trends of effort and catch in the monitoring area, as well as the time left until the monitoring area is no longer effective. If NMFS determines that an adjustment or apportionment of the annual effort caps are necessary to meet management objectives, NMFS will file an action for publication in the **Federal Register**.

(3) *The monitoring areas.* For the purposes of this section, the effective dates and annual effort caps in the monitoring areas are:

(i) The Charleston Bump Monitoring Area is effective from February 1 through April 30 of each calendar year unless closed under paragraph (d)(4) of this section. The annual effort cap is 380 pelagic longline sets.

(ii) The East Florida Coast Monitoring Area is effective year-round unless closed under paragraph (d)(4) of this section. The annual effort cap is 250 pelagic longline sets.

(4) *Closures of the monitoring areas.* When an effort cap under paragraph (d)(3) of this section is reached, or is projected to be reached within the monitoring area's effective time period for a given calendar year, NMFS will file for publication in the **Federal Register** a closure for the monitoring area, which will be effective no fewer than five days from date of filing. NMFS may also file for publication in the **Federal Register** a closure of the monitoring area before the effort cap is reached, if warranted by conservation and management concerns raised by unexpectedly high bycatch, high fishing effort, fishing effort that is overly clustered temporally or spatially, or other relevant considerations. From the effective date and time of the closure until the date specified in the closure action, vessels issued or required to be issued a LAP under this part and that have pelagic longline gear on board are prohibited from fishing with any kind of gear within the boundaries of the relevant monitoring area. NMFS may reopen a monitoring area at a later date during its effective period in that calendar year by filing an action for publication in the **Federal Register**, if NMFS determines that an effort cap has

not in fact been reached, or the closure is no longer needed to address the conservation and management concerns that prompted the closure.

(e) *Other area restrictions applicable to HMS permitted vessels.* (1) In addition to the area restrictions listed above, vessels that have been issued or are required to be issued a permit under this part, may not fish for, catch, possess, or retain any Atlantic HMS in the following spatial management times and areas:

(i) As specified at § 622.34(a)(1)(iii) and (3) of this chapter, within the Edges from January through April of each year. Additionally, no person may anchor a fishing vessel that has been issued a permit or is required to be permitted under this part, in the areas and seasons designated at § 622.34(a)(3) of this chapter.

(ii) As specified at § 622.34(a)(1)(i) and (ii) of this chapter, within the Madison and Swanson and the Steamboat Lumps sites:

(A) From November through April of each year, no vessel issued or required to be issued a permit under this part may fish or deploy any type of fishing gear.

(B) From May through October of each year, no vessel issued or required to be issued a permit under this part may fish or deploy any type of fishing gear except for surface trolling. For the purposes of this section, surface trolling is defined as fishing with lines trailing behind a vessel that is in constant motion at speeds in excess of 4 knots with a visible wake. Such trolling may not involve the use of down riggers, wire lines, planers, or similar devices.

(iii) Within the areas of the Gulf coral Habitat Areas of Particular Concern (HAPCs), as specified in § 622.74 of this chapter, no person may bottom anchor a fishing vessel or deploy fishing gear that may not be deployed pursuant to § 622.74 of this chapter. For purposes of this provision, fishing gear is deployed if any part of the gear is in contact with the water.

(2) If bottom longline gear is on board a vessel issued or required to be issued a permit under this part, persons aboard that vessel may not fish or deploy any type of fishing gear in the following areas:

(i) In the Caribbean, the areas designated at §§ 622.439(a)(1) through (2), 622.479(a)(1) through (2), and 622.514(a)(1) of this chapter, year-round; and

(ii) In the South Atlantic, the areas designated at § 622.183(a)(1)(i)(A) through (H) of this chapter, year-round.

(f) *Review of spatial management measures.* NMFS will regularly review the gear restricted and monitoring areas described in paragraphs (b), (c), and (d) of this section to determine if adjustments are needed to add, change, or modify an area or any applicable requirements for an area. NMFS may review other existing area restrictions (see paragraph (e) of this section) or new or revised area restrictions for potential applicability to HMS permitted vessels. After reviewing an area, NMFS may consider changes or modifications to the area or its management measures, as appropriate, through framework adjustments as specified at § 635.34. When reviewing a spatial management area, NMFS may consider, but is not limited to consideration of, the following relevant factors:

(1) Fishery statistics such as landings, discards, catch rates, and effort.

(2) Fishery social and economic data regarding fishing vessels and shoreside business, including revenue, costs, and profitability.

(3) Effects of total catches from the spatial management areas and other regions on the stock status of target and non-target species or on fishing opportunities in other regions or fisheries.

(4) Fishing practices, including tactics, strategy, and gear.

(5) Biological, ecological, and life history data and research on primary bycatch and target species.

(6) Variations in seasonal distribution, abundance, or migration patterns of the relevant species.

(7) Resilience to oceanographic and fishery changes including changes in species distribution, fishing effort location, and access to fishery resources.

(8) Oceanographic data and research including, but not limited to, sea surface temperature, chlorophyll a concentrations and bathymetry.

(9) Variations in oceanographic features such as currents, fronts, and sea surface temperature.

(10) Other technical considerations such as ecosystem modeling parameters (*e.g.*, ocean currents, bottom topography), safety, enforceability (*e.g.*, regular shapes), gear conflicts, timing of evaluation, access to the area for data collection, access to the fishery itself, conservation and management objectives, state or other jurisdictional boundaries, efficiency in the size of area (given the highly variable and mobile nature of the HMS fisheries), and non-fishery activity (*e.g.*, transportation, energy production).

(11) Other considerations as may be applicable to the specific management goals of any particular spatial management area.

9. Amend § 635.69 by:

- a. Revising paragraphs (a)(2) and (e)(2);
- b. Redesignating paragraph (e)(5) as paragraph (e)(6); and
- c. Adding new paragraph (e)(5).

The revision and addition read as follows:

§ 635.69 Vessel monitoring systems.

(a) * * *

(2) Whenever a vessel issued a directed shark LAP has bottom longline gear on board, is located between 33°00' N. lat. and 36°30' N. lat., and the Mid-Atlantic Bottom Longline Restricted Area is closed as specified in §635.35(b); or

* * * * *

(e) * * *

(2) *Hailing out.* Prior to departure for each trip, a vessel owner and/or operator must submit a pre-trip hail out to NMFS declaring any HMS the vessel will target on that trip and the specific type(s) of fishing gear that will be on board the vessel, using NMFS-defined gear codes. If the vessel owner and/or operator participates in multiple HMS fisheries, or possesses multiple fishing gears on board the vessel, the vessel owner and/or operator must submit multiple electronic reports to NMFS. If, during the trip, the vessel switches to a gear type or species group not reported on the initial declaration, another in-trip hail out declaration must be submitted before new fishing begins. This information must be reported to NMFS using an attached VMS terminal or using another method as instructed by NMFS. Additionally, if a vessel owner or operator intends to fish with pelagic longline gear within a monitoring area (see §§ 635.2 and 635.35(d)(3)), such intent must be declared in the pre-trip or in-trip hail-out. Vessel owners and operators shall not deploy pelagic longline sets in any monitoring area until such declaration is submitted in the pre-trip or in-trip hail-out.

* * * * *

(5) Any vessel owner and/or operator of a vessel fishing with pelagic longline gear within the boundaries of the monitoring areas (see §§ 635.2 and 635.35(d)(3)) must report within 12 hours of the completion of each pelagic longline haul-back the following information to NMFS using the attached VMS terminal, or using an alternative method specified by NMFS:

(i) All the reporting requirements specified under paragraph (e)(4) of this section;
and

(ii) The number of individuals of the following species that are caught and discarded alive or dead: blue marlin, white marlin, roundscale spearfish, sailfish, leatherback sea turtles, loggerhead sea turtles, and shortfin mako sharks.

* * * * *

10. Amend § 635.71 by:

- a. Revising paragraph (a)(30);
- b. Removing and reserving paragraphs (a)(31);
- c. Revising paragraphs (a)(32), (33), (34), and (36);
- d. Removing and reserving paragraph (a)(39);
- e. Revising paragraphs (a)(40), (54), (57), and (58);
- f. Adding paragraphs (a)(63) through (67);
- g. Revising paragraphs (b)(36), (37), (38), (39), and (40);
- h. Removing paragraph (b)(46);
- i. Redesignating paragraphs (b)(47) through (59) as (b)(46) through (58);
- j. Revising paragraphs (d)(24), (25), (28); and
- k. Revising paragraph (e)(2).

The revisions and additions read as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(30) Deploy or fish with any fishing gear from a vessel, or anchor a fishing vessel, permitted or required to be permitted under this part, in any spatial management area contrary to the requirements specified and defined at § 635.35.

* * * * *

(32) In the Gulf of America, deploy or fish a pelagic longline with live bait affixed to the hooks or to possess live bait, or set up a well or tank to maintain live bait, aboard a vessel with pelagic longline gear on board as specified at § 635.21(c)(3).

(33) Deploy or fish with any fishing gear from a vessel with pelagic or bottom longline gear on board without carrying the required sea turtle bycatch mitigation gear, as specified at § 635.21(c)(4)(i) for pelagic longline gear and § 635.21(d)(1) for bottom longline gear. This equipment must be utilized in accordance with § 635.21(c)(4)(ii) and (d)(1) for pelagic and bottom longline gear, respectively.

(34) Fail to disengage any hooked or entangled sea turtle with the least harm possible to the sea turtle as specified at § 635.21(c)(4) or (d)(1).

* * * * *

(36) Fish with bottom or pelagic longline and shark gillnet gear for HMS without adhering to the gear operation and deployment restrictions required in §§ 635.21(b) and 635.35(b), (c), and (d).

* * * * *

(40) Deploy or fish with any fishing gear, from a vessel with bottom longline gear on board, without carrying a dipnet, line clipper, and dehooking device as specified at § 635.21(d)(1).

* * * * *

(54) Possess, use, or deploy, in the Gulf of America, with pelagic longline gear on board, any circle hook that is constructed of round wire stock that is larger than 3.65 mm in diameter during the months of January through June of any calendar year as specified in § 635.21(c)(4)(iii).

* * * * *

(57) Fail to appropriately stow longline gear when transiting a spatial management area that is closed or restricted, as specified in § 635.35.

(58) Deploy or fish with any fishing gear from a vessel that also has pelagic longline gear on board, in a monitoring area that has been closed as specified in § 635.35(d).

* * * * *

(63) Fail to comply with the EM vendor responsibilities as specified in § 635.9.

(64) Fail to comply with the vessel owner and/or operator operational requirements as specified in § 635.9.

(65) Fail to comply with the EM requirements specified at § 635.9(h) when fishing with pelagic longline gear within the monitoring areas specified at § 635.35(d).

(66) Fail to report the catch of species through VMS as required when fishing with pelagic longline gear within spatial management areas as specified at § 635.69(e)(5).

(67) Fish with pelagic longline gear in the monitoring areas as specified at § 635.35(d)(4) without submitting a hail out declaration through VMS as specified at § 635.69(e)(2).

* * * * *

(b) * * *

(36) Possess J-hooks onboard a vessel that has pelagic longline gear on board, and that has been issued or required to be issued a LAP under this part, except when green-stick gear is on board, as specified at § 635.21(c)(2) and (c)(4)(iii)(C).

(37) Use or deploy J-hooks with pelagic longline gear from a vessel that has been issued, or required to be issued a LAP under this part, as specified in § 635.21(c)(4)(iii)(C).

(38) As specified in § 635.21(c)(4)(iii)(C), possess more than 20 J-hooks on board a vessel that has been issued or required to be issued a LAP under this part, when possessing onboard both pelagic longline gear and green-stick gear as defined in § 635.2.

(39) Use or deploy more than 10 hooks at one time on any individual green-stick gear, as specified in § 635.21(c)(2), (c)(4)(iii)(C), or (i).

(40) Possess, use, or deploy J-hooks smaller than 1.5 inch (38.1 mm), when measured in a straight line over the longest distance from the eye to any part of the hook, when fishing with or possessing green-stick gear on board a vessel that has been issued or required to be issued a LAP under this part, as specified at § 635.21(c)(2) or (c)(4)(iii)(C).

* * * * *

(d) * * *

(24) Release sharks with more than 3 feet (91.4 cm) of trailing gear, as specified in § 635.21(c)(5).

(25) Fail to follow the fleet communication and relocation protocol for dusky sharks as specified at § 635.21(c)(5), (d)(1), and (f)(5).

* * * * *

(28) Retain, land, or possess a shortfin mako shark that was caught with pelagic longline, bottom longline, or gillnet gear and was alive at haulback as specified at § 635.21(c)(1), (d)(4), and (f)(6).

* * * * *

(e) * * *

(2) Fail to comply with the restrictions on use of a pelagic longline specified in §§ 635.21(b) and (c) and 635.35(a), (c), and (d).

* * * * *