

the primary location where finfish escape the dredge, and larger mesh improves escapement, especially of flatfish. This mesh size was increased in 1999 from 5–1/2 inches (13.97 cm) to 8 inches (20.32 cm). In addition, under some of the access programs that have allowed sea scallop dredge fishing in areas closed to protect juvenile scallops and/or Northeast multispecies, the mesh size has been increased to as much as 10 inches (25.4 cm) to ensure that bycatch is eliminated.

Under the Northeast (NE) Multispecies FMP, a significant bycatch management measure was implemented beginning in 1994 under a Secretarial emergency action (and permanently implemented under Framework Adjustment 9 to the FMP in 1995), and which was made further inclusive under Amendment 7 to the FMP in 1996. This measure prohibits all vessels, regardless of what fishery it is targeting, from fishing in the Gulf of Maine, Georges Bank or Southern New England waters, unless the vessel is fishing under a NE multispecies or sea scallop day-at-sea, or unless the fishery has been determined to have less than 5-percent bycatch of regulated NE multispecies, or the vessel is fishing with handgear or exempted gear (gear deemed not to be capable of catching NE multispecies).

Other bycatch reduction measures under the NE multispecies FMP include mesh size restrictions starting in 1982 and increasing over the years to as high as 6.5 inch (16.51 cm) and 7.0 inch (17.78 cm) mesh size nets implemented under a recent interim action, some of the largest mesh sizes for groundfish in the world. Large year-round and seasonal closure areas have also been implemented under the FMP over the years to help protect fish when concentrated or when spawning. Also, gear prohibitions, such as a prohibition on pair-trawling and brush-sweep trawls, in 1994 and 1999, respectively, have also contributed to reducing bycatch.

Under the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, NOAA Fisheries, Northeast Region implemented Gear Restricted Areas (GRAs) in the Mid-Atlantic Bight in 2000. GRAs had been recommended by the Mid-Atlantic Fishery Management Council (MAFMC) to reduce bycatch of small scup in small-mesh fisheries. These GRAs regulate the use of otter trawls with codend mesh less than 4.5 inches in size in areas and times that were identified as having high scup discards, specifically by vessels fishing for *Loligo* squid, black sea bass, and silver hake (whiting). The Northern GRA (located off the coast of Rhode

Island and New York) is effective November 1 through December 31; the Southern GRA (extending from southern New Jersey to the border between Virginia and North Carolina) is operative January 1 through March 15.

#### *D. Selected Accomplishments and Ongoing Activities under the ESA*

NMFS is undertaking a proactive program to address sea turtle bycatch in state and Federal fisheries. On July 31, 2001 (66 FR 39474), NMFS published a comprehensive strategy to address sea turtle capture in fishing gear. Numerous fisheries have been implicated in the incidental capture of sea turtles along the Atlantic and Gulf of Mexico coasts. Both state and federally managed fisheries are involved as well as fisheries operating outside of a management plan, including recreational and international fisheries. Data available on the magnitude of the problem vary by fishery and area. The issue is a gear-type problem, rather than a specific target fishery problem. Certain types of gear are more prone to incidentally capturing turtles than others, depending on the nature of the gear, the way the gear is fished, and the time and area within which it is fished. Incidental take of sea turtles in fisheries has mostly been addressed with ESA section 7 consultation process on FMPs. This approach does not allow the integration of state-managed fisheries or fisheries in Federal waters that are not operating under an FMP and that do not fall under the requirements of Section 7, since no Federal activity is involved.

Major goals of the sea turtle bycatch strategy are to increase effectiveness in management and prioritize fishery interaction concerns. To achieve these goals, NMFS will: (1) continue to improve stock assessments for each stock/species of sea turtle; (2) improve and refine estimation techniques for the takes of sea turtles to ensure that the criteria for recovery are being met consistent with ESA mandates; (3) continue to improve the estimation or categorization of sea turtle bycatch by gear type and fishery; (4) evaluate the significance of bycatch by gear type; (5) convene specialist groups to prepare plans for reduction of takes for gear types with significant levels of take; and (6) promulgate ESA and MSA regulations implementing plans developed for take reduction by gear type.

#### *E. Selected Accomplishments and Activities under the MMPA*

The MMPA provides a complex system for controlling bycatch of marine mammals by commercial fisheries.

NMFS implements this system through regulations at 50 CFR Part 229 for authorization for commercial fisheries under the MMPA and several other inter-related programs and actions. NMFS' Office of Protected Resources works with the National Observer Program to provide observer coverage under the MMPA. NMFS summarizes observer data in stock assessment reports, which NMFS prepares and periodically updates in accordance with the MMPA. In these stock assessment reports, NMFS estimates bycatch of marine mammals by commercial fisheries as provided under the MMPA. Stock assessment reports provide much of the data that NMFS uses to classify fisheries and publish the List of Fisheries under the MMPA.

NMFS implements bycatch reduction of marine mammals under the MMPA through take reduction teams and plans. The MMPA provides that NMFS must develop and implement a take reduction plan designed to assist in the recovery or prevent the depletion of each strategic stock of marine mammals that interacts with commercial fisheries that have frequent (Category I) or occasional (Category II) incidental mortality and serious injury of marine mammals. The MMPA provides the process by which NMFS is to develop take reduction plans through take reduction teams. Plans may include several types of measures to protect or restore marine mammal stocks, including fishery specific limits on bycatch, time or area restrictions, alternative gear or techniques and new technologies, education of commercial fishermen, and monitoring the effectiveness of such measures. NMFS must take a draft take reduction plan developed by the take reduction team into consideration and explain the reasons for any changes proposed by NMFS when publishing the plan and proposed regulations to implement the plan in the **Federal Register**. Given this process and these requirements, NMFS implements the take reduction team's draft plan to the maximum extent feasible given the goals of the MMPA and other legal requirements.

NMFS does not have sufficient funds available to develop and implement take reduction plans for all of these stocks, because there are considerable costs and personnel demands associated with the development of take reduction plans, including convening the take reduction team (which must include government and non-government representatives from various sectors), providing for team travel expenses, obtaining and preparing the data necessary to support team deliberations and devise take