

Atlantic States Marine Fisheries Commission

Coastal Sharks Management Board

October 30, 2019

1:15 – 2:30 p.m.

New Castle, New Hampshire

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

1. Welcome/Call to Order (*C. Batsavage*) 1:15 p.m.
2. Board Consent 1:15 p.m.
 - Approval of Agenda
 - Approval of Proceedings from April 2019
3. Public Comment 1:20 p.m.
4. Consider Postponed Motion from April 2019 (*C. Batsavage*) **Final Action** 1:30 p.m.
Move to require, for state waters, the use of circle hooks on lines intended to catch sharks.
 - Law Enforcement Committee Report (*M. Robson*)
 - Advisory Panel Report (*K. Rootes-Murdy*)
5. Set 2020 Specifications (*K. Rootes-Murdy*) **Final Action** 2:00 p.m.
6. Consider Approval of 2019 FMP Review and State Compliance 2:10 p.m.
(*K. Rootes-Murdy*) **Action**
 - Status Update on State Implementation of North Atlantic Shortfin Mako Recreational Measures
7. Elect Vice-Chair **Action** 2:25 p.m.
8. Other Business/Adjourn 2:30 p.m.

The meeting will be held at Wentworth by the Sea, 588 Wentworth Road, New Castle, NH; 603.422.7322

MEETING OVERVIEW

Coastal Sharks Management Board Meeting

October 30, 2019

1:15 – 2:30 p.m.

New Castle, New Hampshire

Chair: Chris Batsavage (DE) Assumed Chairmanship: 5/2019	Vice Chair: VACANT	Law Enforcement Committee Representative: Greg Garner
Coastal Shark Technical Committee Chair: Bryan Frazier (SC)	Coastal Shark Advisory Panel Chair: Vacant	Previous Board Meeting: April 2019
Voting Members: MA, RI, CT, NY, NJ, DE, MD, VA, NC, SC, GA, FL, NMFS, USFWS (14 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from April 2019

3. Public Comment – At the beginning of the meeting public comment will be taken on items not on the Agenda. Individuals that wish to speak at this time must sign in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

4. Consider Postponed Motion from April 2019 (1:30-2:00 p.m.) Final Action
Background <ul style="list-style-type: none"> • The Board postponed the following motion at its April 2019 meeting: <i>Move to require, for state waters, the use of circle hooks on lines intended to catch sharks.</i> • The Board requested feedback from the Advisory Panel (Briefing Materials) and Law Enforcement Committee (Briefing Materials) on the use of circle hooks • Both groups met in September and October to provide feedback and develop recommendations on the proposed gear requirement for the recreational fishery.
Presentations <ul style="list-style-type: none"> • Advisory Panel Report by K. Rootes-Murdy • Law Enforcement Committee Report by M. Robson

Board Actions for Consideration at this Meeting

- Consider action on the postponed motion

5. Set 2020 Specification (2:00-2:10 p.m.) Final Action**Background**

- Similar to the 2017-2019 fishing seasons, NOAA Fisheries is proposing a January 1 open date for all shark management groups. Also proposed is an initial 25 shark possession limit for large coastal and hammerhead management groups with the possibility of in season adjustments (**Briefing Materials**)

Presentations

- NOAA Fisheries Proposed Rule for 2019 Specifications by K. Rootes-Murdy

Board Actions for Consideration at this Meeting

- Set the 2020 coastal shark specifications including commercial opening dates and commercial possession limit by management group.

6. Consider Approval of 2019 FMP Review and State Compliance (2:10-2:25 p.m.) Action**Background**

- State compliance reports are due August 1.
- The Plan Review Team reviewed each state report and drafted the 2019 FMP Review. (**Supplemental Materials**)

Presentations

- Overview of the 2019 Fishery Management Plan Review and status update on state implementation of North Atlantic Shortfin Mako Recreational Measures by K. Rootes-Murdy

Board Actions for Consideration at this Meeting

- Accept the 2019 Fishery Management Plan Review and approve *de minimis* requests

8. Elect Vice-Chair**9. Other Business/Adjourn**

Coastal Sharks

Activity level: Low

Committee Overlap Score: low (some overlap with South Atlantic Board species)

Committee Task List

- TC – August 1st: Annual compliance reports due

TC Members: Bryan Frazier (SC, TC Chair), Carolyn Belcher (GA), Brent Winner (FL), Greg Skomal (MA), Chris Scott (NY), Lisa Hollensead (NC), Conor McManus (RI), Greg Hinks (NJ), Jack Musick (VIMS), Angel Willey (MD, Vice Chair), Matt Gates (CT), Karyl Brewster-Geisz (NOAA), Michael Frisk (NY), Enric Cortes (NOAA), Scott Newlin (DE), Julie Neer (SAFMC), Kirby Rootes-Murdy (ASMFC)

**DRAFT PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
COASTAL SHARKS MANAGEMENT BOARD**

**The Westin Crystal City
Arlington, Virginia
April 30, 2019**

These minutes are draft and subject to approval by the Coastal Sharks Management Board.
The Board will review the minutes during its next meeting.

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1. **Approval of agenda** by consent (Page 1).
2. **Approval of proceedings of October 2018** by consent (Page 1).
3. **Move to adopt, for state waters, minimum recreational size limits for shortfin mako shark to complement the federal recreational fishing measures (male minimum size limit of 71 inches FL & female minimum size limit of 83 inches FL** (Page 4). Motion by Stewart Michels; second by Ray Kane. Motion carried (Page 8).
4. **Move to require, for state waters, the use of circle hooks on lines intended to catch sharks** (Page 8). Motion by Stewart Michels; second by Maureen Davidson. Motion postponed.
5. **Move to postpone until the Board has received feedback from the Law Enforcement Committee and the Advisory Panel with the intention of considering the motion at the Annual Meeting** (Page 10). Motion by Chris Batsavage; second by Ray Kane. Motion carried (Page 10).
6. **Move to require compliance with the shortfin mako minimum sizes by January 1, 2020** (Page 11). Motion by David Pierce; second by Justin Davis. Motion carried (Page 13).
7. **Motion to adjourn** by consent (Page 14).

ATTENDANCE

Board Members

David Pierce, MA (AA)	Craig Pugh, DE, proxy for Rep. Carson (LA)
Ray Kane, MA (GA)	Mike Luisi, MD, proxy for D. Blazer (AA)
Sarah Ferrara, MA, proxy for Rep. Peake (LA)	Russell Dize, MD (GA)
Jason McNamee, RI (AA)	Phil Langley, MD, proxy for Del. Stein (LA)
David Borden, RI (GA)	Lewis Gillingham, VA, proxy for S. Bowman (AA)
Eric Reid, RI, proxy for Sen. Sosnowski (LA)	Sen. Monty Mason, VA (LA)
Justin Davis, CT (AA)	Chris Batsavage, NC, proxy for S. Murphey (AA)
Bill Hyatt, CT (GA)	Jerry Mannen, NC (GA)
Maureen Davidson, NY, proxy for J. Gilmore (AA)	Robert Boyles, Jr., SC (AA)
Emerson Hasbrouck, NY (GA)	Mel Bell, SC, proxy for M. Rhodes (GA)
John McMurray, NY, proxy for Sen. Kaminsky (LA)	Doug Haymans, GA (AA)
Heather Corbett, NJ, proxy for J. Cimino (AA)	Spud Woodward, GA (AA)
Adam Nowalsky, NJ, proxy for Sen. Andrzejczak (LA)	Erika Burgess, FL, proxy for J. McCawley (AA)
Stewart Michels, DE, proxy for D. Saveikis (AA)	Karyl Brewster-Geisz, NMFS HMS
Roy Miller, DE (GA)	John Sweka, USFWS

(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)

Ex-Officio Members

Staff

Robert Beal	Jessica Kuesel
Toni Kerns	Kristen Anstead
Kirby Rootes-Murdy	

Guests

Kathryn Frens, NOAA	Adam Rettig, NOAA
Kathy Knowlton, GA DNR	Scott Ward, NOAA
Nicole Lengyel, RI DEM	

The Coastal Sharks Management Board of the Atlantic States Marine Fisheries Commission convened in the Jefferson Ballroom of the Westin Crystal City Hotel, Arlington, Virginia; Tuesday, April 30, 2019, and was called to order at 3:30 o'clock p.m. by Chairman Roy W. Miller.

CALL TO ORDER

CHAIRMAN ROY W. MILLER: Welcome to the Coastal Sharks Management Board meeting. My name is Roy Miller; I'm from Delaware serving as Chair.

APPROVAL OF AGENDA

CHAIRMAN MILLER: In our meeting materials you have an agenda for this meeting. Are there any proposed changes or additions to this agenda? Seeing none, I assume it is okay as is.

APPROVAL OF PROCEEDINGS

CHAIRMAN MILLER: Also, you have the proceedings from the October, 2018 Shark Board meeting. Are there any changes or additions to those proceedings? Seeing none, I'll assume they're unanimously approved as written.

PUBLIC COMMENT

CHAIRMAN MILLER: I see no names that have signed up for public comment. Is there anyone in the audience that wants to comment on anything not before the Shark Board this afternoon on our agenda?

Are there any shark related comments? Seeing none, we're a bit time constrained, so we'll do the best we can here.

REVIEW FINAL RULE FOR HIGHLY MIGRATORY SPECIES AMENDMENT 11 AND NOAA FISHERIES REQUEST FOR COMPLEMENTARY MEASURES

CHAIRMAN MILLER: I'm going to first of all call on Karyl Brewster-Geisz, who is in the back

there, to tell us about the Final Rule for Highly Migratory Species Amendment 11 for Shortfin Mako, Karyl.

MS. KARYL BREWSTER-GEISZ: Final Amendment 11, this is an amendment we put in place for shortfin mako sharks. If you remember the shark species was assessed back in 2017 by ICCAT, the International Commission for the Conservation of Atlantic Tunas. It is found to be overfished with overfishing occurring.

They implemented a recommendation in November. As a result of that recommendation, we implemented an Emergency Final Rule over a year ago March, March 2018, following the ICCAT recommendation. We brought that forward to this Board, and at that time this Board did not want to follow the emergency regulations, because they were only going to be in effect for at most a year.

Instead, you all implemented I believe it was Addendum 5 that would allow you to implement measures on an in-season basis, for things like the size limits. This emergency rule that NOAA Fisheries implemented did last until March 3, when we finalized Amendment 11. This is just going through some of the timelines that we had.

As I said, the Final Rule was effective March 3 of this year. The final measures in Amendment 11 are very similar to the measures that we proposed, and the measures that we had in the Emergency Rule, but there were some changes. Commercially, no commercial fisherman can land a shortfin mako that was caught live. All the shortfin makos need to have been caught dead, and the pelagic longline fishermen need to have electronic monitoring onboard, to verify that those shortfin mako sharks were dead.

Electronic monitoring is another word for videos. Bottom longline and gillnet fishermen are allowed to keep any that were retained

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dead. They very rarely catch them, but if they do, they are usually dead, and they would be allowed to retain them. Recreationally, we have changed the minimum size for shortfin mako sharks.

If you remember the minimum size for all sharks, well generally all sharks, is 54 inches. In the Emergency Rule we changed it to 83 inches straight line fork length. In this final rule, it is now split by gender, so 71 inches straight line fork length for male shortfin mako sharks, and 83 inches straight line fork length for females.

That is based on size maturity for shortfin makos. The other change we made, if you remember way back in Amendment 5B, we implemented circle hooks for dusky sharks, as a measure to reduce the mortality. That circle hook requirement for dusky sharks only went up through Chatham, Massachusetts.

In Amendment 11, we finalized circle hooks throughout our shark fishery. It's now Maine through Texas, including the Caribbean. Anyone fishing for sharks must use circle hooks, the only exception is for flies or lures. Alternative C1 was monitoring. This was the same as what we proposed. We did not make any changes to increase our authority to require additional monitoring.

But we did starting January 1, require that all HMS tournaments report landings discards, and other information on all HMS, so that includes sharks. Even though we didn't make any change in Amendment 11, we have increased the amount of information we're getting. Then Alternative D3 was just to establish a foundation to develop an international rebuilding plan for shortfin mako sharks.

If you remember, there is a large number of shortfin mako sharks caught throughout the Atlantic. The United States only counts for about 9 percent of those, so the United States would advocate at ICCAT for an international

rebuilding plan. The next slide just has all the links, so if you wanted more information it should be online. Other than that that is it, so thank you.

CHAIRMAN MILLER: Thank you, Karyl. I'll take questions first. Are there any questions from the Board with regard to Mako Shark Amendment 11? Justin Davis.

DR. JUSTIN DAVIS: The last bullet on the previous slide mentioned the International Rebuilding Plan. I take it from what you said that this is not yet in place that other countries have not instituted similar measures to start rebuilding shortfin mako.

MS. BREWSTER-GEISZ: In the ICCAT recommendation there were measures that all countries needed to implement. I believe a number of those countries have. I do not know if all of them have. But there are also questions about projections, and the actual amount of mortality needed to be reduced, and how long that needed to be reduced to rebuild the stock. They are actually meeting this month to start going over some of the science, and coming up with the projections on how long it will take shortfin mako to rebuild. That is part of what Alternative D3 is about.

CHAIRMAN MILLER: Any additional questions, Doug Haymans.

MR. DOUG HAYMANS: I found it interesting that A7 allows a commercial fisherman to report whether or not an animal was dead at haul back or not, so we're trusting him to report the truth, but we're not trusting recreational fishermen to tell us whether the fish was caught in state or federal waters.

You know, one guy has got a vested commercial interest and the other guy is recreational fishing with no commercial. Those two didn't commute to me as for the reason why the state should have complementary regulations in state waters. While they can't tell us where it came

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from, so perhaps there was a discussion that occurred on that topic that you could fill us in on?

MS. BREWSTER-GEISZ: Commercially, most of the shortfin makos are caught on pelagic longline, and they are required to have videos onboard, so we can actually verify that they are landing dead versus live makos. Recreationally, part of the reason we want complementary measures is because a lot of recreational fishermen when they are checking to see what the regulations are, the first place they go is actually to the states.

If the states say the minimum size is 54 inches, when the majority of shortfin mako sharks are caught federally that is a problem. We did notice that last year under the emergency regulation, there is a lot of confusion among the recreational fishermen, on what the size limit was. A lot of fishermen did get caught fishing in federal waters with an undersized mako; because they were unaware they had checked the state apps or website.

MR. HAYMANS: Do you actually verify it with the video against commercial haul back?

MS. BREWSTER-GEISZ: Yes, we have verified and we've actually had a number of people issued warnings or summary settlements as a result.

CHAIRMAN MILLER: Any additional questions, does anyone wish to make any comment on this at this time? Seeing none, I'm going to call on Kirby for Technical Committee report.

TECHNICAL COMMITTEE REPORT

MR. KIRBY ROOTES-MURDY: I'm going to go through the Technical Committee call summary. Our TC Chair was not able to make it up today, so bear with me if you have any technical questions. I will try to answer them to the best of my ability. I'll go through an overview, just recapping some of what Karyl said, the TC call

summary, and then take any questions you have.

Following that, it will be for the Board to consider whether to have a management response to these changes in federal waters. The TC was tasked the following by the Board Chair, which is review the recent management measures implemented for Atlantic shortfin mako sharks through Amendment 11, and provide the Board a report on the potential conservation benefits of adopting complementary management measures in state waters for state permit holders. The TC met via conference call on April 8, to discuss and respond to the task.

As Karyl outlined, there are some changes to commercial measures for HMS permit holders. Retention of sharks if dead at haul back, the new is for longline and gillnets with vessels that have electronic monitoring onboard. Recreationally, the change is having different size limits by sex, so for males 71 inch straight line fork length, for females 83 inches straight line fork length, and a requirement that circle hooks be used when targeting sharks for all HMS permit holders.

The TC in preparation for the call, made an effort to summarize what the state data is that currently demonstrates whether sharks are present or absent in state waters. Not surprising, based on the feedback we heard around this time last year, there is not a lot of recreational or commercial data on shortfin makos in state waters.

We went state by state on that to try to get more information. Some states had commercial data on shortfin makos, but trying to parse out where those shortfin makos were caught is a little bit more challenging, unless you get into then stat area data. There is some recreational information, but it's very limited.

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Generally, we were not able to determine if much if any harvest is happening in state waters. There is not enough data in state waters to demonstrate that implementing the proposed measures would have a significant change in harvest or catch. The TC could not quantify the conservation benefits of complementary recreational measures in state waters.

There was though general agreement that in adopting complementary size limit regulations, it would be best for the resource, in terms of trying to maintain consistency between what the federal regulations are and what state regulations are, to some of the points that were just raised by Karyl in response to Doug Haymans.

Another thing that was discussed by the group was the circle hook requirement. There have been some efforts to try to quantify how that can reduce discard mortality. There was recently a study that was conducted on blacktip sharks using circle hooks, and the results showed that fish that are hooked anywhere besides the jaw, have about a 50 percent mortality rate.

If they were hooked in the jaw using this type of gear, the mortality rate was less than 4 percent. The TC noted that it is likely the J hooks would produce a higher mortality rate. With that being considered, there was definitely some interest expressed by TC members in moving to adopt circle hooks.

One of the challenges that came up is that at least based on the feedback TC members offered, there are a number of states that are at varying stages of implementing circles hooks. Some states have already moved to adopt that for state waters. Other states are in the process of adjusting or evaluating the regulations to potentially change to that. Then there are other states that have at this point indicated that they are not interested in adjusting their gear requirements to encompass circle hooks,

because of concerns of intention and trying to prove that either in a court of law, or from a law enforcement standpoint. In terms of the commercial measures, in considering complementary management measures there, the TC did not have any specific comments on that. Much of the call was focused on these recreational measures, where there was sense that complementary measures would be more consistent and very similar, and beneficial.

But, on commercial data we don't have as much information that would demonstrate that adopting the electronic monitoring for state permit holders, and the requirement of the sharks being dead at haul back that we would be able to demonstrate there would be a significant change in harvest or catch. With that being said, overall the TC recommended that the states adopt complementary size limit regulations by sex, to the Amendment 11 measures for state waters. With that I'll take any questions regarding the TC call and summary, thank you.

CONSIDER COMPLEMENTARY MANAGEMENT MEASURES

CHAIRMAN MILLER: Are there any questions at all concerning the TC report or summary? Seeing none, the next part of this agenda item says Consider Complementary Management Measures. Is there anyone who might have a motion to put before the Board that we can get this conversation started? Stew Michels.

MR. STEWART MICHELS: **I would like to make a motion. I'll move to adopt for state waters, minimum recreational size limits for shortfin mako, to complement the federal recreational fishing measures (the male minimum size limit of 71 inches fork length, and female minimum size limit of 83 inches fork length).**

CHAIRMAN MILLER: Thank you, Stew. Is there a second to this motion? Ray Kane. Ray, did you have a comment as well?

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MR. RAYMOND W. KANE: Question, was that 71 or 73 for the males?

CHAIRMAN MILLER: It was 71, right Stew, and another hand over here, no, and discussion on the motion, Doug Haymans?

MR. HAYMANS: The TC sure didn't make a very convincing argument to me that the states should go that way. It looked like when I read through the limited information we had from the other states, there wasn't a whole lot of support for the states to do this, at least from the TC members from the other states. Everything I've heard from our Law Enforcement is this just is creating a much larger nightmare for them. I would love to hear their committee's input on it, before we move something like this forward.

MR. ROOTES-MURDY: Yes, unfortunately we don't have our Law Enforcement Rep here at the table today. He may be in another Law Enforcement meeting currently, unfortunately. But I will also point out that the Law Enforcement Committee has not met to consider this. It was not something that was specifically tasked to them to consider.

CHAIRMAN MILLER: Jay McNamee.

MR. JASON McNAMEE: I'll offer an alternate interpretation of the Technical Committee report. I think what they said was there is just not a lot of data available to make a strong analysis as to whether there would be an impact, not whether it is good or not to do, but to give us some quantification of potential impacts.

However, I think back to the assessments, which are really rigorous, it was multiple assessments all giving the same information that the shortfin mako is not in good shape. I see these measures as valuable measures to align us with the federal plan. Not to speak for enforcement, but I would think the alignment of

the state plan with the federal plan, would actually help with enforceability, just a couple of comments as to why I'm supporting this motion.

CHAIRMAN MILLER: Maureen, Dr. Pierce next.

MS. MAUREEN DAVIDSON: We did consult with our Marine Enforcement to ask them how they felt about the two minimum sizes for mako shark. They were concerned about having two different size limits for the shark, and they proposed that we use a single 83 inch limit for both sexes, to avoid having people who might not be familiar with sharks, to try to handle a shark to determine what its gender is.

CHAIRMAN MILLER: David Pierce.

DR. DAVID PIERCE: As far as I know there are very few if any shortfin mako sharks caught in Massachusetts state waters, so I would look at this similar to Jason, just a way to try to enhance enforcement of this rule. I'll support this, but again it's just to assist with enforcement, and not to constrain in any way a nonexistent catch of shortfin makos in state waters.

CHAIRMAN MILLER: Did I see a couple other hands, Robert Boyles and then Chris Batsavage?

MR. ROBERT H. BOYLES, JR.: I think this group knows that the state of South Carolina adopts by reference any regulations that are promulgated for sharks under federal authority. This is a done deal for us in South Carolina. I would say though, the way I look at this, you know our role here is to promote a conservation ethic among our anglers.

I share New York's concerns with the two different sizes. We are seeing some indications of increased novice anglers angling for sharks. We have no evidence of these animals in state waters as well, so I'm just concerned about our credibility. I don't oppose the motion, but I just

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want to ask ourselves a question. I mean is this something that is absolutely critical for us to do, to promote stewardship conservation of these animals? Thank you.

CHAIRMAN MILLER: Chris Batsavage.

MR. CHRIS BATSAVAGE: Yes, we were a little concerned about just the differential size limits for males and females. I don't think we have any other finfish regulations like that. However, I believe NOAA Fisheries has educational information available, as far as for the public to identify male and female sharks, and if that's the case that is something that in our proclamation and any news releases, we would link the public to that information, just to avoid any confusion. Just in terms of even though we don't see, very rarely see a mako shark in state waters; we do support consistent regulations between federal and state waters. That really just cuts down on any confusion, as far as the anglers, and also makes it easier for enforcement to write tickets and have them stick.

CHAIRMAN MILLER: Karyl Brewster-Geisz.

MS. BREWSTER-GEISZ: As you all know, with our Emergency Rule we went with the one size limit. We felt the same way, especially for that large of a shark. How safe is it? How many people would be aware? We heard throughout the public comment period from a lot of anglers, a lot of charterboat captains that anyone going out for makos, and that large of a mako, is going to be an experienced angler, and is very aware of how to identify a male and female shark, because it is very obvious once the males reach sexual maturity that they are male.

It's hard to hide that. After a lot of discussion, we did decide to go for the different size limits, trusting that the fishermen were correct that they could identify them correctly, and that this would provide additional opportunities for

them, because a lot of them are going for those male makos, and not the females, which are very rarely caught, even in the recreational fishery.

There were only a few caught last year. Going with the 83 inches, just the recreational component, we had a much larger reduction than we were expecting, which is another reason why we went forward with the two size limits. But it is important we keep that 83 inches for females, one it's what ICCAT recommended, and two, that is the size at which females start to become sexually mature.

That is not the 50 percent level for females. I'm trying to answer some of the questions around the table about the difference in sexes, and we do have a lot of materials to help anglers tell the difference. If you remember, we implemented a requirement that everybody fishing federally for sharks has to watch a video, and answer questions.

We revised that video and included a question about this for Amendment 11. Anybody who got it at the beginning of the year may not have seen the video, but anyone who has gotten their permits since March 3, has seen that video. I can make it available to everybody, if you would like.

CHAIRMAN MILLER: I'll call on Doug Haymans again.

MR. HAYMANS: A question not necessarily to the motion, but for federally permitted shark dealers, can they buy short sharks? In other words state sharks that were caught in state waters, or are they restricted to the federal size limit?

MS. BREWSTER-GEISZ: If you remember, federally permitted dealers in east coast states are required to have that federal permit. They can buy from state fishermen, as long as it follows state regulations. But there are no

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commercial size limits for sharks. All sharks that have size limits are recreational only, and there is no sale of them.

CHAIRMAN MILLER: David Pierce.

DR. PIERCE: I apologize if this question has already been answered. I've been looking at the Federal Register announcement, then of course it's February 21, 2019, and there are references to what ICCAT will do. Has ICCAT already met and taken actions regarding the measures to restrict the shortfin makos?

CHAIRMAN MILLER: My impression is yes, but I'll go back to Karyl.

MS. BREWSTER-GEISZ: Yes, so in 2017, ICCAT recommended the measures that we implemented in Amendment 11. We followed those. They are meeting again this month to discuss the projections.

DR. PIERCE: The reason why I asked the question is on Page 53-61, it says at the top in the left column that this action establishes the foundation for an international ICCAT recommended rebuilding plan, understanding that ICCAT intends to adopt such a plan in the future, and that the United States will advocate for its development of that forum.

I'm just trying to get a better understanding what we are doing, what the federal government is doing. That is to provide the motivation for ICCAT to take measures similar to what we have, for what the federal government has taken, and what we will now be taking now? It talks about future measures, so it sounds like ICCAT hasn't really done this yet. But again, I'm just seeking the clarification.

CHAIRMAN MILLER: Again, I'm going to defer to Karyl.

MS. BREWSTER-GEISZ: Yes, in the future ICCAT will be looking at the projections that its

scientists are looking at right now, to determine how much additional reductions are needed, if there are additional reductions needed, and how long that needs to be in order to rebuild the stock. There could be additional measures coming that we would need to implement, but at the moment, until those measures are recommended by ICCAT, this is what we have, and this is what other countries are implementing as well.

DR. PIERCE: Okay that answers my question. Other countries are implementing these minimum size rules. More measures may be adopted at a future ICCAT meeting, but for now we are not out on our own with the Service, relative to minimum sizes that other nations have done this too. Again, it's important because our take of short makos in the United States is a small percentage relative to what actually caught internationally, so it has happened, the minimum sizes have been adopted internationally.

CHAIRMAN MILLER: Any further comment on that Karyl?

MS. BREWSTER-GEISZ: Yes, minimum sizes are one of the choices that countries have. The recommendation from ICCAT overall wanted all shortfin mako to be released. Then under that there were a number of options for countries to choose from, minimum sizes were one of those options, which we decided to implement for our recreational fishery. For the commercial fishery, we are requiring that they release any live makos, but that they can keep the dead ones. Then there were a whole other suite. But yes, your general thought is correct. Other countries are implementing similar measures.

CHAIRMAN MILLER: All right, Justin Davis did you have one more point?

DR. DAVIS: Do we know the timeframe on which ICCAT is going to conduct another stock assessment for shortfin mako?

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CHAIRMAN MILLER: Again, Karyl.

MS. BREWSTER-GEISZ: I do not believe they're conducting another stock assessment right now. What they are doing is they are taking the information from all the countries last year, and the measures implemented, seeing what the reductions were, and seeing how that affects the stock overall throughout the next couple generations time lengths. That is what they're doing right now. They are not redoing the entire assessment.

CHAIRMAN MILLER: Okay, we've had a fair amount of discussion, some of it directly related to the motion. Are we ready to vote on the motion? All right, all those in favor of the motion raise your right hand.

MS. TONI KERNS: Just to note that this is final action, so if it's everybody that's easy, but if it's not then.

CHAIRMAN MILLER: Were there any objections to the motion? There is one. We have to do a roll call?

MS. KERNS: We note who the objection is coming from.

MR. ROOTES-MURDY: **On the record it was noted that Georgia opposes the motion. Is there anybody who abstains from this motion, seeing none?**

CHAIRMAN MILLER: **All right, seeing none the motion passes 13 to 1, and 0, 0.** Thank you for that. Our next agenda item, I wanted to remind the Board that there was a recommendation regarding circle hooks. Do you want to have a discussion regarding circle hooks in state waters at this particular Shark Board meeting, or is this something we should defer to a subsequent meeting? Are there any thoughts in that regard? Dr. Pierce.

DR. PIERCE: Well, it's easy for me. I would say defer it, because we don't catch sharks in our

waters, so circle hooks are not really required. It's not going to do any good since there are none to be caught, or at least none recorded as having been caught.

CHAIRMAN MILLER: At least two states have mandatory circle hooks now, and others are listed as being in the process. Stew Michels, do you have a comment?

MR. MICHELS: I think just in the interest of consistency with our federal partners, as well as in the spirit of conservation. I think I would like to offer a motion to require for state waters the use of circle hooks on lines intended to catch sharks.

CHAIRMAN MILLER: Is there a second to the motion? Maureen Davidson, or are you making a comment, Maureen, so you're second, thank you. All right, discussion on the motion, I'll start from left and work my way around, Jay McNamee first, then Dr. Pierce.

MR. McNAMEE: I agree with folks on the difficulty with enforceability and things like that. I should have maybe said this earlier. Rhode Island has also already adopted the measures from the Amendment in our state waters, including the circle hook requirement.

For us it was a matter of an opportunity for public education about the circle hooks, and their conservation. That for us adds value, not very enforceable I know. Some people don't like the idea of putting in measures that we know isn't easily enforced, but in this case we saw value in adopting it in state waters for that public education aspect.

CHAIRMAN MILLER: David Pierce.

DR. PIERCE: Yes, just a clarification. It says sharks. Does that mean every shark, every species of shark including dogfish?

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CHAIRMAN MILLER: Let the record reflect that Stew Michels is shaking his head yes. Additional hands on this issue, Maureen Davidson.

MS. DAVIDSON: New York State is the other state that requires circle hooks for our shark fisheries. I believe we exclude dogfish for that. We do that because we do have a recreational fishery for sharks in our state, and we have also landed a small number of mako sharks in the past eight years. We think it's important for us to have circle hooks in our state waters to protect our sharks.

CHAIRMAN MILLER: Chris Batsavage, then Eric.

MR. BATSAVAGE: I know we've expressed concerns over enforceability of using circle hooks for sharks, when I guess it came up for dusky sharks. We still have those concerns. What we do in our shark proclamation is encourage anglers targeting sharks to use non-offset corrodible circle hooks. I can't support this motion at this time.

I would really like to hear from the Law Enforcement Committee on ways to make this as feasible as possible, in terms of enforceability, and also like to hear from the Advisory Panel on just the common practices of using circle hooks in recreational fisheries targeting sharks. I think that would at least give us a better sense of how to move forward with this requirement.

CHAIRMAN MILLER: Since I'm over that side, I'll call on Lewis Gillingham, and I'll get back to you, Eric.

MR. LEWIS GILLINGHAM: While I definitely supported the same measures in state waters for the minimum size, because that's enforceable. It can be enforced at the dock, and I think we will see added conservation, where an undersized mako is brought into state waters without the same size limit, he'll escape. The individual who did it will escape. The way

our law enforcement works, if it's only in federal waters they would have to get a federal agent there to make a case.

They could call them, but they can't do anything. Our laws are possession laws, so with the change of possession I support that. Circle hook, by the same token, I don't want to charge Law Enforcement with something that is not enforceable. How in the world you can enforce a circle hook requirement on the dock is beyond me. You're taking the anglers testimony, yes I use the circle hook, or no I didn't.

I don't want to do that to law enforcement, unless I hear a real good reason why we should do it. I question NOAAs ability to enforcement anywhere except on the water. We do support the use of circle hooks for sharks, for all shark fish, and soon we'll include striped bass. But in terms of making it mandatory, I wouldn't want to be the one that made the vote that now we're going to implement in state waters.

CHAIRMAN MILLER: I have Eric Reid, and then I saw Robert Boyles, and then Ray Kane.

MR. ERIC REID: At this point in every meeting we talk about sharks, I usually bring up the fact that dealers have to go to a class to get their permit renewed, as opposed to doing it online. I'm not going to do that today, just so you're aware of that. But I like to take that opportunity. As far as Dr. Pierce mentioned dogfish would be included in this.

Actually, dogfish is outside of a southeast region shark permit, and could be excluded from that requirement, if anybody would like to go rod and reel fishing for dogfish, because it's not under that permit, it's a different permit if that helps any.

CHAIRMAN MILLER: I had Robert, you're next.

MR. BOYLES: I would like to echo my support for the comments of my colleagues from the old

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North State, the Old Dominion. I think it's important that we certainly encourage anglers to adopt practices that will minimize post release mortality. I understand the intention of the motion, but I think an attorney will look at that motion, how do you prove intent? I think there is going to be a morass of difficulty with that. For that reason I cannot support the motion.

CHAIRMAN MILLER: Ray Kane, you had your hand up?

MR. KANE: Thank you, Mr. Chairman, but Eric Reid answered the question. We were concerned about the use of circle hooks in the commercial dogfish fishery. But being how they are permitted under another permit, we're good. Thank you.

CHAIRMAN MILLER: All right, where are we with regard to the motion? Are we ready to vote on the motion? Does anyone have a substitute motion? Do we need more time to discuss this, like a motion to postpone, or are we ready to vote? Chris Batsavage.

MR. BATSAVAGE: I'll offer a motion to postpone, I guess until we receive feedback from the Law Enforcement Committee and the Coastal Sharks Advisory Panel. I'm not sure if that's time certain enough or not.

CHAIRMAN MILLER: Are you thinking August?

MR. BATSAVAGE: If we can by August that would be fine, if the Coastal Sharks Board is scheduled to meet then, but whatever staff thinks, as far as a feasible time table.

MR. ROOTES-MURDY: I'll just offer, we have been having approximately two board meetings per year. Last year was a little unique, because there was the initiation of an addendum, and an approval of it, Addendum V that allows this Board to make these motions today, adjusting size limits, gear specifications annually ad hoc.

It's at the pleasure of this Board if you wish to have this provided back to you in August, or it could wait until when we will for sure be meeting at the annual meeting. Just as a reminder, at the annual meeting that is when we take up our annual specifications for the following year.

CHAIRMAN MILLER: Bob Beal, did you have an additional comment?

EXECUTIVE DIRECTOR ROBERT E. BEAL: Not a whole lot just was going to say the Law Enforcement Committee will meet at the annual meeting as well. We can set the meetings up so that we have the Law Enforcement Committee meet prior to the shark board meeting. If there is not an urgency to do this in August, we can make most of these meetings happen at our annual meeting in New Hampshire, if that works for folks on the Board.

CHAIRMAN MILLER: Is that agreeable to you, Chris?

MR. BATSAVAGE: Yes, I think that would be the most efficient way to do it.

CHAIRMAN MILLER: Let me read the motion now. Move to postpone until the Board has received feedback from the Law Enforcement Committee and the Advisory Panel with the intention of taking it up at the Annual Meeting.

MR. BATSAVAGE: Yes.

CHAIRMAN MILLER: If that's a reasonable addition. Ray Kane, you'll second that. **Is there any discussion on the motion? Is there any objection to the motion? Seeing none, the motion to postpone carries unanimously.** I'm going to call on Kirby for one final agenda item, and that is Consideration of the 2018 FMP Review and State Compliance Reports, but first I'll acknowledge Lewis Gillingham. Lewis.

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MR. GILLINGHAM: I had a question regarding compliance date for the minimum sizes. That wasn't expressly indicated by the motion.

MR. ROOTES-MURDY: From staff's standpoint, because the Board can take these motions up as final action on an ad hoc basis, unless specified otherwise, these are effective immediate, so that's the moving forward if you think that there needs to be more specificity, in terms of when the implementation date would be, we would need the Board to make that more clear.

MR. GILLINGHAM: I would like that clarity.

CHAIRMAN MILLER: Lewis, can I call on you as to when you want it, or I can call on Stew Michels that had his hand up as well.

MR. GILLINGHAM: Well, this was the problem that was raised before when we started bringing this up during the course of the year. Some states can only do this when their legislature meets. Some states, we like to have a 90 day period. That gives us time to get the information out to the public.

It gives us time to go through our Advisory Board meetings, advertise for public hearings through our Commission, and then the following month hold the Commission meeting. I would say whatever the date is, it should be such a date that all states are able to comply with that implementation date.

CHAIRMAN MILLER: It's sounding like August 1st would be agreeable to you, Lewis?

MR. GILLINGHAM: That would work for us, but again if that works for other states.

CHAIRMAN MILLER: I see one or two heads shaking no, I'll call on Stew Michels.

MR. MICHELS: Yes that's a pretty quick turnaround for us. It takes us every bit of six months to get a regulation in place, and usually

it would be longer than that. But I had the same initial question as Lewis had on what the appropriate compliance deadline would be.

CHAIRMAN MILLER: Robert Boyles.

MR. BOYLES: I think with this Board's forbearance, I think for a lot of species you all end up waiting on South Carolina, because we do require a legislative process. But as I mentioned earlier, we already have a code section on the books that we adopt by reference, so I'm happy to say you won't be necessarily waiting on South Carolina, the Palmetto state on this particular issue. Just for the Board's information.

CHAIRMAN MILLER: David Pierce, and then I've got some direction for the Board.

DR. PIERCE: I was going to make a motion relative to the date for compliance with the shortfin mako on minimum sizes.

CHAIRMAN MILLER: That would be appropriate.

DR. PIERCE: I'll make that motion. I would move that we require compliance with the shortfin mako minimum sizes by the annual ASMFC meeting.

CHAIRMAN MILLER: Is there a second to that motion? The motion reads; Move to require compliance with the shortfin mako minimum sizes by the annual meeting. The motion is made by Dr. Pierce, a second by anyone? Justin Davis. Is there any discussion on the motion? Did you have your hand up, Mike Luisi?

MR. MICHAEL LUISI: Thank you, Mr. Chairman. I'm not going to oppose the motion. I look around to the Board and ask for some leniency in getting these regulations implemented. I believe right now, without having anything here to ask my staff. I think we have actions happening in our shark package right now,

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which means it has to close before we can start considering new regulations.

I do not have a timeline in my mind when we would get this done. Our intention would be to start as soon as possible and move forward to implementing the regulations that are asked, as long as the Board can be a little forgiving and lenient in its application of a noncompliance finding on this, it would be helpful, thanks.

CHAIRMAN MILLER: Can we be forgiving, Board? Are there any further comments on the motion, Karyl?

MS. BREWSTER-GEISZ: Just a note that most of the shortfin makos are going to be caught in tournaments that are happening now. If the Board votes to delay implementation of the minimum sizes, even until August or October, it's effectively not going to be in place until this time next year. That is of consideration. We had a lot of confusion last summer, and if we are delaying it again then there will be continued confusion among the anglers.

CHAIRMAN MILLER: Erika.

MS. ERIKA BURGESS: The Florida Fish and Wildlife Conservation Commission could consider this at the earliest in July, and depending on the procedures that are followed, and whether public objects to the proposed rule. It may be delayed until August or later. But in the meantime we have in our state implemented a requirement for circle hooks in state waters.

On our website we have a large banner indicating that HMS permit holders must follow the federal regulations in state waters, and we also have a large banner indicating that anyone who fishes for sharks in federal waters must follow the regulations, and we direct them to your website. That should satisfy some concern about whether a recreational angler can know what the rules are.

CHAIRMAN MILLER: Well we have a motion before us. Did you have a comment, Maureen? Go ahead.

MS. DAVIDSON: I realize that there is a range of timeframes that it takes for a state to enact regulations controlling mako minimum lengths. We could probably get it into effect very quickly in New York; if we could stress that it's an emergency. But some other states require legislative action. I would ask that the Board not make it so tight so that it's by the annual meeting, to give each state time to be able to get this provision in effect. I hate to say it, but maybe the deadline should be spring of 2020.

CHAIRMAN MILLER: I'll look to the maker of the motion. Do you consider that a friendly amendment, David Pierce?

DR. PIERCE: I think that's too long. I think the motion makes sense, somebody can be forgiven.

MR. ADAM NOWALSKY: With regards to needing a specific date. Ultimately, in terms of our forgiveness that's going to come back to our next compliance report, I would think. Is it a time at which we determine if we're going to forgive a state. Would that be correct? We wouldn't have a discussion about whether a state was in compliance or not, until we did the next compliance report. Is that correct?

CHAIRMAN MILLER: That's my understanding, Kirby?

MR. ROOTES-MURDY: Yes, the compliance report is due July 1, so that would be on the previous fishing year, so you would be reporting out in terms of your compliance reports for say the 2019 fishing season not until next year. If it's not being implemented until 2020, then it would have to be noted in next year's compliance report, basically.

MR. NOWALSKY: Where I'm going with that is that if we don't put any date on this at all, no

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state would be required to report compliance until July 1st of next year, is what I think I'm hearing. As long as they were able to report July 1st by compliance of next year, then we wouldn't have to take up any issue of needing to be lenient or not. I think that is what I'm hearing.

CHAIRMAN MILLER: I think that's what I'm hearing too, Kirby.

MR. ROOTES-MURDY: Yes, again it gets back to what this Board's preference is. If you guys want to set a hard date that the states have to have these regulations in place by say January 1, 2020, you know that's your prerogative, but if you prefer to allow for it to follow the cycle of the annual compliance report, then that is your prerogative as well. You can choose to set that as your date.

CHAIRMAN MILLER: Adam.

MR. NOWALSKY: I think given the concerns I've heard around the table, I would just let it go until we get to the next compliance meeting. Let every state go home, do their due diligence and I think we would be in good shape as a Board at that point. That would be my preference moving forward, so I would be in opposition to this motion, and just let it go.

MR. ROOTES-MURDY: One follow-up question, Adam. I think one of the things that may need to be considered, so we will get compliance reports next July, right, and that would be for the 2019 fishing season. If we're meeting let's say May of next year, what would be our mechanism to verify whether states are on their way to implementing those measures or not? What I'm hearing is that if we follow a by July 1st deadline, then there would be no checking on whether the states have met this motion until likely the fall of next year.

MR. NOWALSKY: That would be my intent I think at that point. That would encompass

everybody's need around the table to meet whatever their individual timelines are. I think everyone would get there by that point.

CHAIRMAN MILLER: Maureen and then Ray Kane.

MS. DAVIDSON: NOAA has already expressed concern that we are going to miss the tournament season for 2019, based on our meeting now and whatever deadline we're going to propose for 2019. If we wait until July of 2020, then next summer also will likely be missed, in terms of trying to control minimum size for shortfin mako.

CHAIRMAN MILLER: Ray Kane.

MR. KANE: Yes, my sentiments exactly, Mr. Chairman. I mean we're already missing this season, according to National Marine Fisheries, the tournament season. To delay out to July 1, maybe we can make a hard date for the winter meeting. I've heard around the table it's going to take states six months, so six months out, February is what eight, nine, ten months out. My concern would be next year's tournament season.

CHAIRMAN MILLER: **I'm going to look to the maker of the motion. Do you want to consider changing the date in your motion, or do you want us to vote on it like it is?**

DR. PIERCE: I'm not sure what date I should choose, January 1, 2020, to provide states with a little bit more time. That is obviously one option. Clearly, I don't want to put states that can't do this by the annual meeting in a difficult position. I don't know how many states could get it done by January of 2020, more perhaps. In the interest of perhaps getting more support for the motion. If there is no objection from the Chair or from the Board, I would say by January 1 of 2020 or by the January meeting if there is one. I'm not sure, by the February meeting, 2020.

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CHAIRMAN MILLER: How about January 1, since then it would be for the fishing season.

DR. PIERCE: That's fine by me. Whatever makes the most sense, so January 1, 2020, yes.

CHAIRMAN MILLER: I'll call on the seconder of the motion; Justin Davis is that okay with you? Justin is indicating yes. **Are we ready to vote on this particular motion? Is there any objection to the motion, 1 objection? Are there any abstentions, any null votes? The motion carries that would be 13-1-0-0.**

2018 FMP REVIEW AND STATE COMPLIANCE REPORTS

CHAIRMAN MILLER: We have run out of time to consider the 2018 FMP Review and State Compliance Reports. We'll have to do that by phone or by e-mail.

ADJOURNMENT

CHAIRMAN MILLER: Is there any very pressing business to come before this Board? Seeing none, are we in agreement to adjourn? We're unanimous on that. Thank you.

(Whereupon the meeting adjourned at 4:30 o'clock p.m. on April 30, 2019)



Atlantic States Marine Fisheries Commission

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MEMORANDUM

September 24, 2019

To: Coastal Sharks Management Board
From: Law Enforcement Committee
RE: Consideration of Circle Hook Requirement

The Law Enforcement Committee (LEC) of the Atlantic States Marine Fisheries Commission (ASMFC) convened a teleconference on September 20, 2019 to review and provide comments on the potential requirement of circle hooks to catch sharks in state waters.

The following were in attendance:

LEC: LTC Kathy Cyr (USCG); Sgt. Greg Garner (SC); Capt. Doug Messeck (DE); Katie Moore (USCG); Maj. Patrick Moran (MA); Capt. Scott Pearce (FL); Capt. Jason Snellbaker (NJ); Maj. Jason Walker (NC)

OTHER PARTICIPANTS: Tobey Curtis (NOAA HMS)

STAFF: Max Appelman; Kirby Rootes-Murdy; Mark Robson

Kirby Rootes-Murdy provided background to the LEC participants on the request by the Coastal Sharks Management Board for input on a potential action to “require, for state waters, the use of circle hooks on lines intended to catch sharks”.

The LEC had previously provided written comment on the requirement in Federal Amendment 5b for use of circle hooks in federal waters south of Chatham, MA. In a memo dated July 11, 2017 the LEC pointed to the difficulties of enforcing a regulation that might require evidence that an angler is “targeting” a particular species of fish with a prohibited hook type or size. This continues to be a concern for the LEC in the current proposal. The LEC therefore reiterates the position that, despite the recognized potential value of a circle hook requirement to reduce release mortality in the recreational fishery, strict enforcement of a rule that depends on proving targeting or intent to catch sharks with prohibited gear would be very difficult. Therefore, if the Board were to implement such a requirement, the LEC emphasized the importance of using intensive education and outreach to garner support for a circle hook regulation.

The LEC reviewed the existing shark-fishing regulations in Florida, and concurs that the standards used there would be very helpful in defining intent or targeting by means of the techniques or gear employed or by possession of a shark permit. Based on reports of successful

implementation of the regulation in Florida, the LEC recommends adopting similar language for all states, including a standard definition of a circle hook. For example, a definition as follows:

Non-stainless-steel circle hooks. A person targeting or harvesting sharks from Florida Waters must use non-stainless-steel circle hooks when fishing with live or dead natural bait. "Circle hook" means a fishing hook designed and manufactured so that the point is not offset and is turned perpendicularly back to the shank to form a general circular or oval shape.

The LEC stresses the importance of all jurisdictions agreeing on standardized regulatory language, especially where states share common borders and fishing areas.

The LEC appreciates the opportunity to review the proposals of the Coastal Sharks Management Board and to provide enforcement advice as regulations are considered and developed.



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MEMORANDUM

October 3, 2019

To: Coastal Sharks Management Board
From: Coastal Sharks Advisory Panel
RE: AP Review of Circle Hook Requirements

Participants: Charles Witek (NY), Mark Sampson (MD), Pete Grimbilas (NJ), Katie Westfall (EDF)

Staff: Kirby Rootes-Murdy (ASMFC)

Other: Chris Batsavage (Board Chair), Tobey Curtis (NOAA)

An Advisory Panel conference call was held on October 1, 2019 to review the Board's postponed motion which considers requiring circle hooks for the coastal sharks recreational fishery in state waters. Four AP member were in attendance and their comments and recommendations are summarized below.

Comments

Mark Sampson- Indicated he didn't see how requiring all the states to adopt the circle hook requirement would present a challenge for law enforcement. By requiring anglers in all states fishing in both state and federal waters to have the same gear requirement, it might make things easier for checking compliance, for example when a vessel returns to dock there would be no need to verify whether that those onboard had been fishing with the correct gear for the corresponding area.

Additionally, Mark noted that Florida now requires a quiz for shore-based shark fishing that covers species identification, best handling techniques, and gear requirements.

Charles Witek- Noted while New York has a state statute that requires the use of circle hooks, even if this wasn't in the state regulation, he doesn't see any downside to using them. Similar to Mark, he noted the benefit in having the same gear requirements for shore, nearshore, and offshore fishing.

In New York, there has been a decrease in anglers targeting striped bass and bluefish in light of the declining populations for both species and anglers fishing from shore have switched to target coastal sharks. Most of the sharks they encounter from shore are from the prohibited species list, so there's added benefit if they catch any those species that circle hook may improve chances of post-release survival. To help with determining whether an angler is targeting sharks and compliant with the regulation of the hook.

Katie Westfall- Given the evidence there is conservation benefit in using circle hooks to reduce post-release mortality, she indicated it would be best to require them. While helpful, circle

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hooks should be viewed as part of multi-approach effort as they are not a panacea and that education on best handling, release techniques, as well as species identification given some anglers who catch sharks are not always able to correctly identify the species.

Peter Grimbilas – Has run a shark tournament in New Jersey for about 30 years. Supports the conservation of the shark species, and requiring the use of circle hooks in state waters, noting that it becomes an enforcement issue when some vessels come in to the dock and they claim to have caught a shark in state waters, when the species they've caught likely occurred in federal waters. In running the shark tournament for over the 30 years, specifically targeting shortfin makos, there is an approximate 10% success rate- 10 boats go out fishing, only one lands a mako. With the increase in the size limit recently on shortfin makos, there has been a decrease in participation in the tournament.

Recommendations

The AP members recommended that the Board move forward with the circle hook requirement for the coastal sharks recreational fishery in state waters with the understanding that the current postponed motion should be adjusted to 1) mirror the federal regulatory language on circle hook requirements for recreational HMS permit holders and 2) that similar to the federal language, the motion should allow for an exemption to this requirement when fishing using flies or artificial lures. Language from NOAA HMS Amendment 11 and compliance guide on what the specifications of the circle hook gear requirement is included below. Additionally, the AP recommended that the Board should work to encourage the education and outreach on this change in recreational gear requirements as well as safe handling of sharks, similar to what is now required for HMS permit holders.

The regulatory text from Amendment 11 final rule:

Sec 635.21 (k)

“(1) A person on board a vessel that has been issued or is required to be issued a permit with a shark endorsement under this part and who is participating in an HMS registered tournament that bestows points, prizes, or awards for Atlantic sharks must deploy only non-offset, corrodible circle hooks when fishing for, retaining, possessing, or landing sharks, except when fishing with flies or artificial lures.”

The more plain language version of this regulation from the NOAA compliance guide:

“All HMS permit holders are required to use non-offset, non-stainless steel circle hooks when fishing for sharks recreationally, except when fishing with flies or artificial lures, in federal waters.”

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635****[Docket No. 190913–0027]****RIN 0648–XT004****Atlantic Highly Migratory Species; 2020 Atlantic Shark Commercial Fishing Year**

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would adjust quotas and retention limits, and establish opening dates for the 2020 fishing year for the Atlantic commercial shark fisheries. Quotas would be adjusted as required or allowable based on any overharvests and/or underharvests experienced during the 2019 fishing year. In addition, NMFS proposes opening dates and commercial retention limits based on adaptive management measures to provide, to the extent practicable, fishing opportunities for commercial shark fishermen in all regions and areas. The proposed measures could affect fishing opportunities for commercial shark fishermen in the northwestern Atlantic Ocean, the Gulf of Mexico, and the Caribbean Sea.

DATES: Written comments must be received by October 10, 2019.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2019–0091, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0091, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Guy DuBeck, NMFS/SF1, 1315 East-West Highway, National Marine Fisheries Service, SSMC3, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying

information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Copies of this proposed rule and supporting documents are available from the HMS Management Division website at <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species> or by contacting Guy DuBeck by phone at 301–427–8503.

FOR FURTHER INFORMATION CONTACT: Guy DuBeck or Karyl Brewster-Geisz at 301–427–8503.

SUPPLEMENTARY INFORMATION:**Background**

The Atlantic commercial shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. For the Atlantic commercial shark fisheries, the 2006 Consolidated HMS FMP and its amendments established commercial shark retention limits, commercial quotas for species and management groups, and accounting measures for underharvests and overharvests for the shark fisheries. The FMP also includes adaptive management measures, such as flexible opening dates for the fishing year and inseason adjustments to shark trip limits, which provide management flexibility in furtherance of equitable fishing opportunities, to the extent practicable, for commercial shark fishermen in all regions and areas.

2020 Proposed Commercial Shark Quotas

This proposed rule would adjust the quota levels for the different shark stocks and management groups for the 2019 Atlantic commercial shark fishing year based on overharvests and underharvests that occurred during the 2019 fishing year, consistent with existing regulations at 50 CFR 635.27(b). Overharvests and underharvests are accounted for in the same region, sub-region, and/or fishery in which they occurred the following year, except that large overharvests may be spread over a number of subsequent fishing years up to a maximum of five years. Shark stocks that are overfished, have overfishing occurring, or have an

unknown status, as well as management groups that contain one or more stocks that are overfished, have overfishing occurring, or have an unknown stock status, will not have underharvest carried over in the following year. Stocks or management groups that are not overfished and have no overfishing occurring may have any underharvest carried over in the following year, up to 50 percent of the base annual quota.

Based on 2019 harvests to date, and after considering catch rates and landings from previous years, NMFS proposes to adjust the 2020 quotas for certain management groups as shown in Table 1. In the final rule, any adjustments to the quotas will be based on how the quotas are affected by new data from dealer reports received by late October to mid-November 2019. Thus, all of the 2020 proposed quotas for the respective stocks and management groups will be subject to further adjustment after NMFS considers the dealer reports through late October to mid-November. NMFS anticipates that all dealer reports that are received after the late October to mid-November date will be used to adjust 2021 quotas, as appropriate.

Because the Gulf of Mexico blacktip shark management group and smoothhound shark management groups in the Gulf of Mexico and Atlantic regions are not overfished, and overfishing is not occurring, available underharvest (up to 50 percent of the base annual quota) from the 2019 fishing year for these management groups may be applied to the respective 2020 quotas. NMFS proposes to account for any underharvest of Gulf of Mexico blacktip sharks by dividing underharvest between the eastern and western Gulf of Mexico sub-regional quotas based on the sub-regional quota split percentage implemented in Amendment 6 to the 2006 Consolidated Atlantic HMS FMP (80 FR 50073; August 18, 2015).

For the sandbar shark, aggregated large coastal shark (LCS), hammerhead shark, non-blacknose small coastal shark (SCS), blacknose shark, blue shark, porbeagle shark, and pelagic shark (other than porbeagle or blue sharks) management groups, the 2019 underharvests cannot be carried over to the 2020 fishing year because those stocks or management groups are overfished, are experiencing overfishing, or have an unknown status. There also were no overharvests in these management groups. Thus, NMFS proposes that quotas for these management groups be equal to the annual base quota without adjustment, although the final quotas will be based

on current data at the time the final rule is prepared.

The proposed 2020 quotas by species and management group are summarized in Table 1; the description of the

calculations for each stock and management group can be found below.

TABLE 1—2020 PROPOSED QUOTAS AND OPENING DATES FOR THE ATLANTIC SHARK MANAGEMENT GROUPS
 [All quotas and landings are dressed weight (dw), in metric tons (mt), unless specified otherwise. Table includes landings data as of September 13, 2019; final quotas are subject to change based on landings as of late October to mid-November 2019. 1 mt = 2,204.6 lb]

Region or sub-region	Management group	2019 annual quota (A)	Preliminary 2019 landings ¹ (B)	Adjustments ² (C)	2020 base annual quota (D)	2020 proposed annual quota (D + C)	Season opening dates
Western Gulf of Mexico	Blacktip Sharks ³	250.8 mt dw (552,919 lb dw) ⁵ .	62.2 mt dw (137,118 lb dw).	127.9 mt dw (281,899.8 lb dw).	231 mt dw (510,261 lb dw).	358.9 mt dw (792,161 lb dw).	January 1, 2020.
	Aggregated ⁴ Large Coastal Sharks.	22.0 mt dw (48,501 lb dw) ⁵ .	11.7 mt dw (25,805 lb dw).	.....	72.0 mt dw (158,724 lb dw).	72.0 mt dw (158,724 lb dw).
	Hammerhead Sharks	3.9 mt dw (8,598 lb dw) ⁵ .	<0.5 mt dw (<1,300 lb dw) ⁵.	.....	11.9 mt dw (26,301 lb dw).	11.9 mt dw (26,301 lb dw).
Eastern Gulf of Mexico	Blacktip Sharks ³	32.7 mt dw (72,091 lb dw) ⁵ .	7.2 mt dw (15,778 lb dw).	13.9 mt dw (30,627.7 lb dw).	25.1 mt dw (55,439 lb dw).	39.0 mt dw (86,066.7 lb dw).	January 1, 2020.
	Aggregated Large Coastal Sharks.	135.5 mt dw (298,726 lb dw) ⁵ .	61.3 mt dw (135,227 lb dw).	.....	85.5 mt dw (188,593 lb dw).	85.5 mt dw (188,593 lb dw).
	Hammerhead Sharks	21.4 mt dw (47,178 lb dw) ⁵ .	9.2 mt dw (20,353 lb dw).	.....	13.4 mt dw (29,421 lb dw).	13.4 mt dw (29,421 lb dw).
Gulf of Mexico	Non-Blacknose Small Coastal Sharks.	112.6 mt dw (248,215 lb dw).	34.5 mt dw (76,027 lb dw).	112.6 mt dw (248,215 lb dw).	112.6 mt dw (248,215 lb dw).	January 1, 2020.
	Smoothhound Sharks	504.6 mt dw (1,112,441 lb dw).	<5.0 mt dw (<11,000 lb dw).	168.2 mt dw (370,814 lb dw).	336.4 mt dw (741,627 lb dw).	504.6 mt dw (1,112,441 lb dw).	
Atlantic	Aggregated Large Coastal Sharks.	168.9 mt dw (372,552 lb dw).	34.5 mt dw (76,011 lb dw).	168.9 mt dw (372,552 lb dw).	168.9 mt dw (372,552 lb dw).	January 1, 2020.
	Hammerhead Sharks	27.1 mt dw (59,736 lb dw).	9.3 mt dw (20,479 lb dw).	.....	27.1 mt dw (59,736 lb dw).	27.1 mt dw (59,736 lb dw).
	Non-Blacknose Small Coastal Sharks.	264.1 mt dw (582,333 lb dw).	83.8 mt dw (184,735 lb dw).	.....	264.1 mt dw (582,333 lb dw).	264.1 mt dw (582,333 lb dw).
	Blacknose Sharks	17.2 mt dw (37,921 lb dw).	7.9 mt dw (17,431 lb dw).	.....	17.2 mt dw (37,921 lb dw).	17.2 mt dw (37,921 lb dw).
No regional quotas	Smoothhound Sharks	1,802.6 mt dw (3,973,902 lb dw).	279.6 mt dw (616,326 lb dw).	600.9 mt dw (1,324,634 lb dw).	1,201.7 mt dw (2,649,268 lb dw).	1,802.6 mt dw (3,971,587 lb dw).	January 1, 2020.
	Non-Sandbar LCS Research.	50.0 mt dw (110,230 lb dw).	10.1 mt dw (22,195 lb dw).	.....	50.0 mt dw (110,230 lb dw).	50.0 mt dw (110,230 lb dw).
	Sandbar Shark Research.	90.7 mt dw (199,943 lb dw).	50.6 mt dw (111,542 lb dw).	.....	90.7 mt dw (199,943 lb dw).	90.7 mt dw (199,943 lb dw).
	Blue Sharks	273.0 mt dw (601,856 lb dw).	0 mt dw (0 lb dw) .....	.....	273.0 mt dw (601,856 lb dw).	273.0 mt dw (601,856 lb dw).
	Porbeagle Sharks	1.7 mt dw (3,748 lb dw).	<0.5 mt dw (<1,000 lb dw).	.....	1.7 mt dw (3,748 lb dw).	1.7 mt dw (3,748 lb dw).
	Pelagic Sharks Other Than Porbeagle or Blue.	488.0 mt dw (1,075,856 lb dw).	28.6 mt dw (63,006 lb dw).	.....	488.0 mt dw (1,075,856 lb dw).	488.0 mt dw (1,075,856 lb dw).

¹ Landings are from January 1, 2019, through September 13, 2019, and are subject to change.
² Underharvest adjustments can only be applied to stocks or management groups that are not overfished and have no overfishing occurring. Also, the underharvest adjustments cannot exceed 50 percent of the base annual quota.
³ This adjustment accounts for underharvest in 2019. This proposed rule would increase the overall Gulf of Mexico blacktip shark quota by 141.8 mt dw (281,899.8 lb dw). Since any underharvest would be divided based on the sub-regional quota percentage split, the western Gulf of Mexico blacktip shark quota would be increased by 127.9 mt dw, or 90.2 percent of the underharvest, while the eastern Gulf of Mexico blacktip shark quota would be increased by 13.9 mt dw, or 9.8 percent of the underharvest.
⁴ While the western Gulf of Mexico Aggregated LCS quota was still under the limit when the 2019 final rule was released, the quota was exceeded by the end of the year. However, current landings are at 11 percent of the available 2019 quota and current catch rates do not indicate the quota will be fully landed. This underharvest (62.3 mt dw) is much greater than the 2018 overharvest (8.0 mt dw; 17,548 lb dw). Therefore, NMFS is proposing that the 2019 quota be adjusted to account for the 2018 overharvest, and the 2020 quota be equal to the annual base quota without adjustment.
⁵ NMFS transferred 5 mt dw of the blacktip shark quota, 50 mt dw of the aggregated LCS quota, and 8 mt dw of the hammerhead shark quota from the western Gulf of Mexico sub-region to the eastern Gulf of Mexico sub-region on September 12, 2019.

1. Proposed 2020 Quotas for the Gulf of Mexico Region Shark Management Groups

In a recent action, NMFS transferred 5 mt dw of the blacktip shark quota, 50 mt dw of the aggregated LCS quota, and 8 mt dw of the hammerhead shark quota from the western Gulf of Mexico sub-region to the eastern Gulf of Mexico sub-region on September 12, 2019. This quota transfer would not impact the proposed actions in this rulemaking. The 2020 proposed commercial quota for blacktip sharks in the western Gulf of Mexico sub-region is 358.9 mt dw (792,161 lb dw) and the eastern Gulf of Mexico sub-region is 39.0 mt dw (86,066.7 lb dw; Table 1). As of September 13, 2019, preliminary reported landings for blacktip sharks in the western Gulf of Mexico sub-region

were at 25 percent (62.2 mt dw) of their 2019 quota levels (250.8 mt dw), and blacktip sharks in the eastern Gulf of Mexico sub-region were at 22 percent (7.2 mt dw) of their 2019 quota levels (32.7 mt dw). Reported landings in both sub-regions have not exceeded the 2019 quota to date, and blacktip shark landings in both sub-regions are lower than usual. Gulf of Mexico blacktip sharks have not been declared to be overfished, to have overfishing occurring, or to have an unknown status. Pursuant to § 635.27(b)(2)(ii), underharvests for blacktip sharks within the Gulf of Mexico region therefore may be applied to the 2019 quotas, up to 50 percent of the base annual quota. Additionally, any underharvest would be divided between the two sub-regions, based on the percentages that are allocated to each sub-region, which are

set forth in § 635.27(b)(1)(ii)(C). To date, the overall Gulf of Mexico blacktip shark management group is underharvested by 214.1 mt dw (472,114 lb dw). Accordingly, NMFS proposed to increase the western Gulf of Mexico blacktip shark quota by 127.9 mt dw or 90.2 percent of the underharvest, while the eastern Gulf of Mexico blacktip shark sub-regional quota would increase by 13.9 mt dw, or 9.8 percent of the underharvest (Table 1). Thus, the proposed western sub-regional Gulf of Mexico blacktip shark commercial quota is 358.9 mt dw (792,161 lb dw), and the proposed eastern sub-regional Gulf of Mexico blacktip shark commercial quota is 39.0 mt dw (86,066.7 lb dw). The 2020 proposed commercial quota for aggregated LCS in the western Gulf of Mexico sub-region is 141.7 mt dw (312,176 lb dw), and the eastern Gulf of

Mexico sub-region is 85.5 mt dw (188,593 lb dw; Table 1). As of September 13, 2019, preliminary reported landings for aggregated LCS in the western Gulf of Mexico sub-region were at 53 percent (11.7 mt dw) of the 2019 quota (22.0 mt dw), while the aggregated LCS in the eastern Gulf of Mexico sub-region were at 45 percent (61.3 mt dw) of their 2019 quota levels (135.5 mt dw). NMFS is proposing to adjust the 2019 aggregated LCS quota in the western Gulf of Mexico sub-region to account for an 8 mt dw overharvest that occurred in 2018. While the quota was still under the limit when the 2019 Atlantic Shark Commercial Fishing Year final rule was released (83 FR 60777; November 27, 2018), the quota was exceeded by the end of the 2019 calendar year, as later revealed by updated data received in 2019. Although NMFS generally accounts for later-reported overages in the subsequent year (here, 2020), NMFS has, under certain circumstances, re-adjusted the subject year quota if appropriate. Given that 2019 landings are low, current catch rates indicate that the 2019 quota will not be fully landed, and that there is time to further adjust this approach, if needed, in the final rule in response to any updated landings information. NMFS is proposing that the 2019 sub-regional quota be adjusted to account for the 2018 overharvest, and is proposing that the 2020 quota for the aggregated LCS in the western Gulf of Mexico be equal to the annual base quota without adjustment. NMFS proposes to re-adjust the western Gulf of Mexico sub-regional quota by 8 mt dw (17,548 lb dw) from the 2019 quota. If catch rates do increase, and the revised 2019 sub-regional quota is exceeded, then NMFS would, in the final rule, reduce the 2020 quota by that overharvest. Based on preliminary estimates and catch rates from previous years, and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2020 quota for aggregated LCS in the eastern Gulf of Mexico sub-region be equal to the annual base quota without adjustment, because the overall regional quota has not been overharvested and because underharvests cannot be carried over due to stock status.

The 2020 proposed commercial quotas for hammerhead sharks in the eastern Gulf of Mexico sub-region and western Gulf of Mexico sub-region are 11.9 mt dw (26,301 lb dw) and 13.4 mt dw (29,421 lb dw), respectively (Table 1). As of September 13, 2019, preliminary reported landings for hammerhead sharks in the western Gulf

of Mexico sub-region were less than 12 percent (<0.5 mt dw) of their 2019 quota levels (3.9 mt dw), while landings of hammerhead sharks in the eastern Gulf of Mexico sub-region were at 43 percent (9.2 mt dw) of their 2019 quota levels (21.4 mt dw). Reported landings from both Gulf of Mexico and Atlantic regions have not exceeded the 2019 overall hammerhead quota to date. Given the overfished status of the scalloped hammerhead shark, the hammerhead shark quota cannot be adjusted for any underharvests. Therefore, based on both preliminary estimates and catch rates from previous years and the fact that the 2019 overall hammerhead shark quota has not been overharvested to date, and consistent with the current regulations at § 635.27(b)(2)(ii), NMFS proposes that the 2020 quotas for hammerhead sharks in the western Gulf of Mexico and eastern Gulf of Mexico sub-regions be equal to their annual base quotas without adjustment.

The 2020 proposed commercial quota for non-blacknose SCS in the Gulf of Mexico region is 112.6 mt dw (248,215 lb dw). As of September 13, 2019, preliminary reported landings of non-blacknose SCS were at 31 percent (34.5 mt dw) of their 2019 quota level (112.6 mt dw) in the Gulf of Mexico region. Reported landings have not exceeded the 2019 quota to date. Given the unknown status of bonnethead sharks within the Gulf of Mexico non-blacknose SCS management group, underharvests cannot be carried forward, pursuant to § 635.27(b)(2)(ii). Under current regulations at § 635.27(b)(2), underharvests cannot be carried over due to stock status. Based on both preliminary estimates and catch rates from previous years, and because there have not been any overharvests, NMFS proposes that the 2020 quota for non-blacknose SCS in the Gulf of Mexico region be equal to the annual base quota without adjustment. There is no allowable harvest of blacknose sharks in the Gulf of Mexico region.

The 2020 proposed commercial quota for smoothhound sharks in the Gulf of Mexico region is 504.6 mt dw (1,112,441 lb dw). As of September 13, 2019, preliminary reported landings of smoothhound sharks were less than 5 percent (<4.9 mt dw) in the Gulf of Mexico region. Gulf of Mexico smoothhound sharks have not been declared to be overfished, to have overfishing occurring, or to have an unknown status. Pursuant to § 635.27(b)(2)(ii), underharvests for smoothhound sharks within the Gulf of Mexico region therefore could be applied to the 2020 quotas up to 50

percent of the base annual quota. Accordingly, NMFS proposes to increase the 2020 Gulf of Mexico smoothhound shark quota to adjust for anticipated underharvests in 2019 as allowed. The proposed 2020 adjusted base annual quota for Gulf of Mexico smoothhound sharks is 504.6 mt dw (336.4 mt dw) annual base quota + 168.2 mt dw 2019 underharvest = 504.6 mt dw 2020 adjusted annual quota).

2. Proposed 2020 Quotas for the Atlantic Region Shark Management Groups

The 2020 proposed commercial quota for aggregated LCS in the Atlantic region is 168.9 mt dw (372,552 lb dw). As of September 13, 2019, the aggregated LCS fishery in the Atlantic region is still open, and preliminary landings indicate that only 20 percent of the quota, or 34.5 mt dw, has been harvested. Given the unknown status of some of the shark species within the Atlantic aggregated LCS management group, underharvests cannot be carried over pursuant to § 635.27(b)(2)(ii). Therefore, based on both preliminary estimates and catch rates from previous years, and consistent with current regulations at § 635.27(b)(2), NMFS proposes that the 2020 quota for aggregated LCS in the Atlantic region be equal to the annual base quota without adjustment, because there have not been any overharvests, and underharvests cannot be carried over due to stock status. End:??

The 2020 proposed commercial quota for hammerhead sharks in the Atlantic region is 27.1 mt dw (59,736 lb dw). Currently, the hammerhead shark fishery in the Atlantic region is still open and preliminary landings as of September 13, 2019, indicate that 34 percent of the Atlantic regional quota, or 9.3 mt dw, has been harvested. Reported landings from both Gulf of Mexico and Atlantic regions have not exceeded the 2019 overall hammerhead quota to date. Given the overfished status of hammerhead sharks, underharvests cannot be carried forward pursuant to § 635.27(b)(2)(ii). Therefore, based on both preliminary estimates and catch rates from previous years, and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2020 quota for hammerhead sharks in the Atlantic region be equal to the annual base quota without adjustment, because the overall hammerhead shark quota has not been overharvested, and because underharvests cannot be carried over due to stock status.

The 2020 proposed commercial quota for non-blacknose SCS in the Atlantic region is 264.1 mt dw (582,333 lb dw). As of September 13, 2019, preliminary reported landings of non-blacknose SCS

were at 32 percent (83.8 mt dw) of their 2019 quota level in the Atlantic region. Reported landings have not exceeded the 2019 quota to date. Given the unknown status of bonnethead sharks within the Atlantic non-blacknose SCS management group, underharvests cannot be carried forward pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates of catch rates from previous years, and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2020 quota for non-blacknose SCS in the Atlantic region be equal to the annual base quota without adjustment, because there have not been any overharvests, and because underharvests cannot be carried over due to stock status.

The 2019 proposed commercial quota for blacknose sharks in the Atlantic region is 17.2 mt dw (37,921 lb dw). This quota is available in the Atlantic region only for those vessels operating south of 34° N latitude. North of 34° N latitude, retention, landing, or sale of blacknose sharks is prohibited. As of September 13, 2019, preliminary reported landings of blacknose sharks were at 46 percent (7.9 mt dw) of their 2019 quota levels in the Atlantic region. Reported landings have not exceeded the 2019 quota to date. Pursuant to § 635.27(b)(2), because blacknose sharks have been declared to be overfished with overfishing occurring in the Atlantic region, NMFS could not carry forward the remaining underharvest. Therefore, NMFS proposes that the 2020 Atlantic blacknose shark quota be equal to the annual base quota without adjustment.

The 2020 proposed commercial quota for smoothhound sharks in the Atlantic region is 1,802.6 mt dw (3,973,902 lb dw). As of September 13, 2019, preliminary reported landings of smoothhound sharks were at 16 percent (279.6 mt dw) of their 2019 quota levels in the Atlantic region. Atlantic smoothhound sharks have not been declared to be overfished, to have overfishing occurring, or to have an unknown status. Pursuant to § 635.27(b)(2)(ii), underharvests for smoothhound sharks within the Atlantic region therefore could be applied to the 2020 quotas up to 50 percent of the base annual quota. Accordingly, NMFS proposes to increase the 2020 Atlantic smoothhound shark quota to adjust for anticipated underharvests in 2019 as allowed. The proposed 2020 adjusted base annual quota for Atlantic smoothhound sharks is 1,802.6 mt dw (1,201.7 mt dw annual base quota + 600.9 mt dw 2019 underharvest = 1,802.6 mt dw 2020 adjusted annual quota).

3. Proposed 2020 Quotas for Shark Management Groups With No Regional Quotas

The 2020 proposed commercial quotas within the shark research fishery are 50 mt dw (110,230 lb dw) for research LCS and 90.7 mt dw (199,943 lb dw) for sandbar sharks. Within the shark research fishery, as of September 13, 2019, preliminary reported landings of research LCS were at 20 percent (10.1 mt dw) of their 2019 quota levels, and sandbar shark reported landings were at 56 percent (50.6 mt dw) of their 2019 quota levels. Reported landings have not exceeded the 2019 quotas to date. Under § 635.27(b)(2)(ii), because sandbar sharks and scalloped hammerhead sharks within the research LCS management group are either not overfished or overfishing is not occurring, underharvests for these management groups cannot be carried forward to the 2020 quotas. Therefore, based on preliminary estimates, and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2020 quota in the shark research fishery be equal to the annual base quota without adjustment because there have not been any overharvests, and because underharvests cannot be carried over due to stock status.

The 2020 proposed commercial quotas for blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle or blue sharks) are 273.0 mt dw (601,856 lb dw), 1.7 mt dw (3,748 lb dw), and 488.0 mt dw (1,075,856 lb dw), respectively. As of September 13, 2019, there were no preliminary reported landings of blue sharks, porbeagle shark reported landings were at <33 percent (<0.5 mt dw) of their 2019 quota levels, and landings of pelagic sharks (other than porbeagle and blue sharks) were at 6 percent (28.6 mt dw) of their 2019 quota level (488.0 mt dw). Given that these pelagic species are overfished, have overfishing occurring, or have an unknown status, underharvests cannot be carried forward pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2020 quotas for blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle and blue sharks) be equal to their annual base quotas without adjustment, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

4. Proposed Opening Dates and Retention Limits for the 2020 Atlantic Commercial Shark Fishing Year

For each fishery, NMFS considered the seven "Opening Commercial Fishing Season Criteria" listed at § 635.27(b)(3). The criteria includes factors such as the available annual quotas for the current fishing season, estimated season length and average weekly catch rates from previous years, length of the season and fishery participation in past years, impacts to accomplishing objectives of the 2006 Consolidated Atlantic HMS FMP and its amendments, temporal variation in behavior or biology of target species (e.g., seasonal distribution or abundance), impact of catch rates in one region on another, and effects of delayed openings.

NMFS applied the Opening Commercial Fishing Season Criteria by examining the overharvests and underharvests of the different management groups in the 2019 fishing year to determine the likely effects of the proposed commercial quotas for 2020 on shark stocks and fishermen across regional and sub-regional fishing areas. NMFS also examined the potential season length and previous catch rates to ensure, to the extent practicable, that equitable fishing opportunities be provided to fishermen in all areas. Lastly, NMFS examined the seasonal variation of the different species/management groups and the effects on fishing opportunities.

NMFS also considered the six "inseason trip limit adjustment criteria" listed at § 635.24(a)(8) for directed shark limited access permit holders intending to land LCS other than sandbar sharks. Those criteria are: The amount of remaining shark quota in the relevant area or region, to date, based on dealer reports; the catch rates of the relevant shark species/complexes, to date, based on dealer reports; the estimated date of fishery closure based on when the landings are projected to reach 80-percent of the available overall, regional, and/or sub-regional quota, if the fishery's landings are not projected to reach 100 percent of the applicable quota before the end of the season, or when the season of a quota-linked management group is closed; effects of the adjustment on accomplishing the objectives of the 2006 Consolidated Atlantic HMS FMP and its amendments; variations in seasonal distribution, abundance, or migratory patterns of the relevant shark species based on scientific and fishery-based knowledge; and/or effects of catch rates in one part of a region precluding vessels in another part of that region from having a

reasonable opportunity to harvest a portion of the relevant quota.

After considering all these criteria, NMFS is proposing to open the 2020 Atlantic commercial shark fishing season for all shark management groups in the northwestern Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, on or about January 1, 2020, after the publication of the final

rule for this action (Table 2). NMFS is also proposing to start the 2020 commercial shark fishing season with the commercial retention limit of 45 LCS other than sandbar sharks per vessel per trip in both the eastern and western Gulf of Mexico sub-regions, and a commercial retention limit of 25 LCS other than sandbar sharks per vessel per

trip in the Atlantic region (Table 2). NMFS will consider public comments received during the current year and catch rates from this year. Any retention limits that are proposed could change as a result of public comments as well as catch rates and landings information based on updated data available when drafting the final rule.

TABLE 2—QUOTA LINKAGES, SEASON OPENING DATES, AND COMMERCIAL RETENTION LIMIT BY REGIONAL OR SUB-REGIONAL SHARK MANAGEMENT GROUP

Region or sub-region	Management group	Quota linkages	Season opening dates	Commercial retention limits for directed shark limited access permit holders (inseason adjustments are possible)
Western Gulf of Mexico.	Blacktip Sharks	Not Linked	January 1, 2020	45 LCS other than sandbar sharks per vessel per trip.
	Aggregated Large Coastal Sharks. Hammerhead Sharks.	Linked.		
Eastern Gulf of Mexico.	Blacktip Sharks	Not Linked	January 1, 2020	45 LCS other than sandbar sharks per vessel per trip. ¹
	Aggregated Large Coastal Sharks. Hammerhead Sharks.	Linked.		
Gulf of Mexico	Non-Blacknose Small Coastal Sharks.	Not Linked	January 1, 2020	N/A.
Atlantic	Smoothhound Sharks	Not Linked	January 1, 2020	N/A.
	Aggregated Large Coastal Sharks.	Linked	January 1, 2020	25 LCS other than sandbar sharks per vessel per trip. If quota is landed quickly (e.g., if approximately 20 percent of quota is caught at the beginning of the year), NMFS anticipates an inseason reduction (e.g., to 3 or fewer LCS other than sandbar sharks per vessel per trip), then an inseason increase to 36 LCS other than sandbar sharks per vessel per trip around July 15, 2020. ²
	Hammerhead Sharks	.....	.....
No regional quotas	Non-Blacknose Small Coastal Sharks.	Linked (South of 34° N lat. only).	January 1, 2020	N/A.
	Blacknose Sharks (South of 34° N lat. only).	.....	.....	8 Blacknose sharks per vessel per trip (applies to directed and incidental permit holders).
	Smoothhound Sharks	Not Linked	January 1, 2020	N/A.
	Non-Sandbar LCS Research. Sandbar Shark Research.	Linked	January 1, 2020	N/A.
	Blue Sharks	Not Linked	January 1, 2020	N/A.
	Porbeagle Sharks. Pelagic Sharks Other Than Porbeagle or Blue.			

¹ NMFS may consider a higher starting retention limit for the entire region of 55 sharks per trip to increase the harvest level and ensure the management group can maximize its quota. NMFS is asking for comments specifically on this potential increase in retention limits.

² NMFS is proposing changing the percent of quota harvested at which it considers adjusting the retention limit. Rather than 20 percent, NMFS would consider adjustment at a higher percentage to allow fishermen in the Atlantic region to more fully utilize the quota. NMFS is asking for comment specifically on this potential change in the benchmark (percent of quota harvested) at which NMFS considers an inseason adjustment. Additionally, NMFS is also considering an increase from the initial 25 sharks per trip in the beginning of the fishing year to a higher number of landings per trip, within the 55 sharks per trip limit. NMFS is specifically asking for comments on these potential changes.

In the Gulf of Mexico region, NMFS proposes opening the fishing season on or about January 1, 2020, for the aggregated LCS, blacktip sharks, and hammerhead shark management groups with the commercial retention limits of 45 LCS other than sandbar sharks per vessel per trip for directed shark permit

holders in the eastern and western sub-region. This opening date and retention limit combination would provide, to the extent practicable, equitable opportunities across the fisheries management sub-regions. This opening date takes into account all the season opening criteria listed in § 635.27(b)(3),

and particularly the criteria that requires NMFS to consider the length of the season for the different species and/or management group in the previous years (§ 635.27(b)(3)(ii) and (iii)) and whether fishermen were able to participate in the fishery in those years (§ 635.27(b)(3)(v)). The proposed

commercial retention limits take into account the criteria listed in § 635.24(a)(8), and particularly the criterion that requires NMFS to consider the catch rates of the relevant shark species/complexes based on dealer reports to date (§ 635.24(a)(8)(ii)). NMFS may also adjust the retention limit in the Gulf of Mexico region throughout the season to ensure fishermen in all parts of the region have an opportunity to harvest aggregated LCS, blacktip sharks, and hammerhead sharks (see the criteria listed at § 635.27(b)(3)(v) and § 635.24(a)(8)(ii), (v), and (vi)). For both the eastern and western Gulf of Mexico sub-regions combined, dealer reports received through September 13, 2019, indicate that 24 percent (69.4 mt dw), 46 percent (73.0 mt dw), and less than 40 percent (<10.0 mt dw) of the available blacktip, aggregated LCS, and hammerhead shark quotas, respectively, has been harvested. Therefore, for 2020, NMFS is considering opening the both the western and eastern Gulf of Mexico sub-regions at 45 sharks per trip, but may also consider a higher starting retention limit for the entire region of 55 sharks per trip to increase the harvest level and ensure the management group can maximize its quota. NMFS is asking for comments specifically on this potential increase in retention limits.

In the Atlantic region, NMFS proposes opening the aggregated LCS and hammerhead shark management groups on or about January 1, 2020. This opening date is the same date that these management groups opened in 2019. As described below, this opening date also takes into account all the criteria listed in § 635.27(b)(3), and particularly the criterion that NMFS consider the effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the different species and/or management quotas (§ 635.27(b)(3)(v)). The 2019 data indicates that an opening date of January 1, coupled with inseason adjustments to the retention limit, provided a reasonable opportunity for fishermen in every part of each region to harvest a portion of the available quotas (§ 635.27(b)(3)(i)) while accounting for variations in seasonal distribution of the different species in the management groups (§ 635.27(b)(3)(iv)). In 2019, when the aggregated LCS quota was harvested too quickly, NMFS reduced the retention limit to three sharks per trip (April 2, 2019; 84 FR 12524) to allow fishermen in the North Atlantic an opportunity to fish later in the year when sharks are available in the North Atlantic area (see

the criteria at § 635.24(a)(3)(i), (ii), (v), and (vi)). NMFS then increased the retention limit to 36 sharks per trip on June 25, 2019 (84 FR 29808), to increase fishing opportunities for all fishermen across the Atlantic region. Because the quotas we propose for 2020 are the same as the quotas in 2019, NMFS proposes that the season lengths and therefore the participation of various fishermen throughout the region, would be similar in 2020 (§ 635.27(b)(3)(ii) and (iii)). Based on the recent performance of the fishery, the January 1 opening date appears to meet the objectives of the 2006 Consolidated Atlantic HMS FMP and its amendments (§ 635.27(b)(3)(vi)). However, after reviewing landings data from 2016 to the present, NMFS has seen a decrease in landings over time in the aggregated LCS management group. Because of the decrease in landings, NMFS is also proposing changing the percent of quotas harvested at which it considers adjusting the retention limit. Rather than 20 percent, NMFS would consider adjustments at a higher percentage to allow fishermen in the Atlantic region to more fully utilize the quota. While this is not a regulatory provision, it is a management benchmark NMFS has used (and announced as part of the rulemaking process) in previous seasons to help determine at which point it will consider an inseason action to adjust the retention limits. NMFS is asking for comment specifically on this potential change in the benchmark (percent of quota harvested) at which NMFS considers an inseason adjustment.

In addition, for the aggregated LCS and hammerhead shark management groups in the Atlantic region, NMFS proposes opening the fishing year with the commercial retention limit for directed shark limited access permit holders of 25 LCS other than sandbar sharks per vessel per trip. This retention limit should allow fishermen to harvest some of the 2020 quota at the beginning of the year when sharks are more prevalent in the South Atlantic area (see the criteria at § 635.24(a)(3)(i), (ii), (v), and (vi)). As was done in 2019, if it appears that the quota is being harvested too quickly to allow directed fishermen throughout the entire region an opportunity to fish and ensure enough quota remains until later in the year, NMFS would reduce the commercial retention limits to incidental levels (3 LCS other than sandbar sharks per vessel per trip) or another level calculated to reduce the harvest of LCS taking into account § 635.27(b)(3) and the inseason trip limit adjustment criteria listed in

§ 635.24(a)(8). If the quota continues to be harvested quickly, NMFS could reduce the retention limit to 0 LCS other than sandbar sharks per vessel per trip to ensure enough quota remains until later in the year. If either situation occurs, NMFS would publish in the **Federal Register** notification of any inseason adjustments of the retention limit to an appropriate limit of sharks per trip. NMFS will consider increasing the commercial retention limits per trip at a later date, if necessary, to provide fishermen in the northern portion of the Atlantic region an opportunity to retain aggregated LCS and hammerhead sharks after considering the appropriate inseason adjustment criteria. Similarly, at some point later in the year, NMFS may consider increasing the retention limit to 36 LCS other than sandbar sharks per vessel per trip or another amount, as deemed appropriate, after considering the inseason trip limit adjustment criteria. If the quota is being harvested too quickly or too slowly, NMFS could adjust the retention limit appropriately to ensure the fishery remains open most of the rest of the year. However, as stated above, NMFS has noticed a decrease in annual landings from 2016 to present. As such, in addition to the proposed change to the percent of quota harvested, NMFS is also considering an increase from the initial 25 sharks per trip in the beginning of the fishing year to a higher number of landings per trip, within the 55 sharks per trip limit. Changes to either the percent of quota harvested or the initial retention limit (or both) could allow fishermen in the Atlantic region to more fully utilize the quota. NMFS is specifically asking for comments on these potential changes.

All of the shark management groups would remain open until December 31, 2020, or until NMFS determines that the landings for any shark management group have reached, or are projected to reach, 80-percent of the available overall, regional, and/or sub-regional quota, if the fishery's landings are not projected to reach 100 percent of the applicable quota before the end of the season, or when the quota-linked management group is closed. If NMFS determines that a non-linked shark species or management group must be closed, then, consistent with § 635.28(b)(2) for non-linked quotas (e.g., eastern Gulf of Mexico blacktip, western Gulf of Mexico blacktip, Gulf of Mexico non-blacknose SCS, pelagic sharks, or the Atlantic or Gulf of Mexico smoothhound sharks), NMFS will publish in the **Federal Register** a notice of closure for that shark species, shark

management group, region, and/or sub-region that will be effective no fewer than four days from the date of filing (83 FR 31677; July 9, 2018). For the blacktip shark management group, regulations at § 635.28(b)(5)(i) through (v) authorize NMFS to close the management group before landings reach, or are expected to reach, 80-percent of the available overall, regional, and/or sub-regional quota, after considering the following criteria and other relevant factors: Season length based on available sub-regional quota and average sub-regional catch rates; variability in regional and/or sub-regional seasonal distribution, abundance, and migratory patterns; effects on accomplishing the objectives of the 2006 Consolidated Atlantic HMS FMP and its amendments; amount of remaining shark quotas in the relevant sub-region; and regional and/or sub-regional catch rates of the relevant shark species or management groups. From the effective date and time of the closure until NMFS announces, via the publication of a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fisheries for the shark species or management group are closed, even across fishing years.

If NMFS determines that a linked shark species or management group must be closed, then, consistent with § 635.28(b)(3) for linked quotas and the Final Rule to Revise Atlantic Highly Migratory Species Shark Fishery Closure Regulations (83 FR 31677; July 9, 2018), NMFS will publish in the **Federal Register** a notice of closure for all of the species and/or management groups in a linked group that will be effective no fewer than four days from date of filing. In that event, from the effective date and time of the closure until NMFS announces, via the publication of a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fisheries for all linked species and/or management groups will be closed, even across fishing years. The linked quotas of the species and/or management groups are Atlantic hammerhead sharks and Atlantic aggregated LCS; eastern Gulf of Mexico hammerhead sharks and eastern Gulf of Mexico aggregated LCS; western Gulf of Mexico hammerhead sharks and western Gulf of Mexico aggregated LCS; and Atlantic blacknose and Atlantic non-blacknose SCS south of 34° N latitude.

Request for Comments

Comments on this proposed rule may be submitted via www.regulations.gov or by mail. NMFS solicits comments on

this proposed rule by October 10, 2019 (see **DATES** and **ADDRESSES**). As noted above, NMFS is specifically asking for comments on three distinct issues—the initial LCS retention limit in the Gulf of Mexico region, the level of landings at which NMFS considers adjusting the retention limit for the Atlantic region, and the initial LCS retention limit in the Atlantic region.

Classification

The NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated Atlantic HMS FMP and its amendments, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

These proposed specifications are exempt from review under Executive Order 12866.

NMFS determined that the final rules to implement Amendment 2 to the 2006 Consolidated Atlantic HMS FMP (June 24, 2008, 73 FR 35778; corrected on July 15, 2008, 73 FR 40658), Amendment 5a to the 2006 Consolidated Atlantic HMS FMP (78 FR 40318; July 3, 2013), Amendment 6 to the 2006 Consolidated Atlantic HMS FMP (80 FR 50073; August 18, 2015), and Amendment 9 to the 2006 Consolidated Atlantic HMS FMP (80 FR 73128; November 24, 2015) are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of coastal states on the Atlantic including the Gulf of Mexico and the Caribbean Sea as required under the Coastal Zone Management Act. Pursuant to 15 CFR 930.41(a), NMFS provided the Coastal Zone Management Program of each coastal state a 60-day period to review the consistency determination and to advise NMFS of their concurrence. NMFS received concurrence with the consistency determinations from several states and inferred consistency from those states that did not respond within the 60-day time period. This proposed action to establish opening dates and adjust quotas for the 2020 fishing year for the Atlantic commercial shark fisheries does not change the framework previously consulted upon. Therefore, no additional consultation is required.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA analysis follows.

Section 603(b)(1) of the RFA requires agencies to explain the purpose of the rule. This rule, consistent with the

Magnuson-Stevens Act and the 2006 Consolidated Atlantic HMS FMP and its amendments, is being proposed to establish the 2020 commercial shark fishing quotas, retention limits, and fishing seasons. Without this rule, the commercial shark fisheries would close on December 31, 2019, and would not open until another action was taken. This proposed rule would be implemented according to the regulations implementing the 2006 Consolidated Atlantic HMS FMP and its amendments. Thus, NMFS proposes few, if any, economic impacts to fishermen other than those already analyzed in the 2006 Consolidated Atlantic HMS FMP and its amendments, based on the quota adjustments.

Section 603(b)(2) of the RFA requires agencies to explain the rule's objectives. The objectives of this rule are to: Adjust the base quotas for all shark management groups based on any overharvests and/or underharvests from the previous fishing year(s); establish the opening dates of the various management groups; and establish the retention limits for the blacktip shark, aggregated large coastal shark, and hammerhead shark management groups in order to provide, to the extent practicable, equitable opportunities across the fishing management regions and/or sub-regions while also considering the ecological needs of the different shark species.

Section 603(b)(3) 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) has established size criteria for all major industry sectors in the United States, including fish harvesters. Provision is made under SBA's regulations for an agency to develop its own industry-specific size standards after consultation with Advocacy and an opportunity for public comment (see 13 CFR 121.903(c)). Under this provision, NMFS may establish size standards that differ from those established by the SBA Office of Size Standards, but only for use by NMFS and only for the purpose of conducting an analysis of economic effects in fulfillment of the agency's obligations under the RFA. To utilize this provision, NMFS must publish such size standards in the **Federal Register**, which NMFS did on December 29, 2015 (80 FR 81194; 50 CFR 200.2). In this final rule effective on July 1, 2016, NMFS established a small business size standard of \$11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411) for RFA compliance purposes. NMFS considers all HMS permit

holders to be small entities because they had average annual receipts of less than \$11 million for commercial fishing.

As of September 2019, the proposed rule would apply to the approximately 219 directed commercial shark permit holders, 262 incidental commercial shark permit holders, 162 smoothhound shark permit holders, and 106 commercial shark dealers. Not all permit holders are active in the fishery in any given year. Active directed commercial shark permit holders are defined as those with valid permits that landed one shark based on HMS electronic dealer reports. Of the 481 directed and incidental commercial shark permit holders, only 12 permit holders landed sharks in the Gulf of Mexico region and only 69 landed sharks in the Atlantic region. Of the 154 smoothhound shark permit holders, only 61 permit holders landed smoothhound sharks in the Atlantic region and none landed smoothhound sharks in the Gulf of Mexico region. NMFS has determined that the proposed rule would not likely affect any small governmental jurisdictions.

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements (5 U.S.C. 603(b)(4)). Similarly, this proposed rule would not conflict, duplicate, or overlap with other relevant Federal rules (5 U.S.C. 603(b)(5)). Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements as domestically implemented, domestic laws, and FMPs. These include, but are not limited to, the Magnuson-Stevens Act, the Atlantic Tunas Convention Act, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act.

Section 603(c) of the RFA requires each IRFA to contain a description of any significant alternatives to the

proposed rule, which would accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the proposed rule on small entities. Additionally, the RFA (5 U.S.C. 603(c)(1)–(4)) lists four general categories of significant alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage of the rule for small entities. In order to meet the objectives of this proposed rule, consistent with the Magnuson-Stevens Act, NMFS cannot exempt small entities or change the reporting requirements only for small entities, because all of the entities affected are considered small entities. In addition, there are no alternatives discussed that fall under the first, second, and fourth categories described above. NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act; therefore, there are no alternatives considered under the third category.

This rulemaking does not establish management measures to be implemented, but rather implements previously adopted and analyzed measures with adjustments, as specified in the 2006 Consolidated Atlantic HMS FMP and its amendments and the Environmental Assessment (EA) that accompanied the 2011 shark quota specifications rule (75 FR 76302; December 8, 2010). Thus, NMFS proposes to adjust quotas established and analyzed in the 2006 Consolidated

Atlantic HMS FMP and its amendments by subtracting the underharvest or adding the overharvest as allowable. Thus, NMFS has limited flexibility to modify the quotas in this rule, the impacts of which were analyzed in previous regulatory flexibility analyses.

Based on the 2018 ex-vessel price (Table 3), fully harvesting the unadjusted 2020 Atlantic shark commercial base quotas could result in total fleet revenues of \$8,775,599. For the Gulf of Mexico blacktip shark management group, NMFS is proposing to increase the base sub-regional quotas due to the underharvests in 2019. The increase for the western Gulf of Mexico blacktip shark management group could result in a \$232,674 gain in total revenues for fishermen in that sub-region, while the increase for the eastern Gulf of Mexico blacktip shark management group could result in a \$41,513 gain in total revenues for fishermen in that sub-region. For the Gulf of Mexico and Atlantic smoothhound shark management groups, NMFS is proposing to increase the base quotas due to the underharvest in 2019. This would cause a potential gain in revenue of \$262,788 for the fleet in the Gulf of Mexico region and a potential gain in revenue of \$1,057,482 for the fleet in the Atlantic region.

All of these changes in gross revenues are similar to the changes in gross revenues analyzed in the 2006 Consolidated Atlantic HMS FMP and its amendments. The final regulatory flexibility analyses for those amendments concluded that the economic impacts on these small entities are expected to be minimal. In the 2006 Consolidated Atlantic HMS FMP and its amendments and the EA for the 2011 shark quota specifications rule, NMFS stated it would be conducting annual rulemakings and considering the potential economic impacts of adjusting the quotas for underharvests and overharvests at that time.

TABLE 3—AVERAGE EX-VESSEL PRICES PER LB DW FOR EACH SHARK MANAGEMENT GROUP, 2018

Region	Species	Average ex-vessel meat price	Average ex-vessel fin price
Western Gulf of Mexico	Blacktip Shark	\$0.53	\$10.94
	Aggregated LCS	0.67	11.61
	Hammerhead Shark	0.51	11.12
Eastern Gulf of Mexico	Blacktip Shark	1.06	9.54
	Aggregated LCS	0.59	11.93
	Hammerhead Shark	0.40	13.20
Gulf of Mexico	Non-Blacknose SCS	0.54	7.00
	Smoothhound Shark	0.65	.....
Atlantic	Aggregated LCS	0.98	11.06
	Hammerhead Shark	0.42	6.66
	Non-Blacknose SCS	0.99	7.67

TABLE 3—AVERAGE EX-VESSEL PRICES PER LB DW FOR EACH SHARK MANAGEMENT GROUP, 2018—Continued

Region	Species	Average ex-vessel meat price	Average ex-vessel fin price
No Region	Blacknose Shark	1.21	.....
	Smoothhound Shark	0.74	1.62
	Shark Research Fishery (Aggregated LCS)	0.81	11.61
	Shark Research Fishery (Sandbar only)	0.61	11.00
	Blue shark	0.45	3.01
	Porbeagle shark	1.18	3.01
	Other Pelagic sharks	1.46	3.01

For this rule, NMFS also reviewed the criteria at § 635.27(b)(3) to determine when opening each fishery would provide equitable opportunities for fishermen, to the extent practicable, while also considering the ecological needs of the different species. The opening dates of the fishing season(s) could vary depending upon the available annual quota, catch rates, and number of fishing participants during

the year. For the 2020 fishing year, NMFS is proposing to open all of the shark management groups on the effective date of the final rule for this action (expected to be on or about January 1). The direct and indirect economic impacts would be neutral on a short- and long-term basis because NMFS is not proposing to change the opening dates of these fisheries from the status quo.

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

Dated: September 16, 2019.

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 Regulatory Programs, National Marine
 Fisheries Service.*

[FR Doc. 2019-20249 Filed 9-18-19; 8:45 am]

BILLING CODE 3510-22-P