

# Atlantic States Marine Fisheries Commission

## Spiny Dogfish and Coastal Shark Management Board

August 9, 2012  
10:15 a.m. – 12:45 p.m.  
Alexandria, Virginia

### Draft Agenda - Updated

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 (*D. Simpson*) 10:15 a.m.
2. Board Consent 10:20 a.m.
  - Approval of Agenda
  - Approval of Proceedings from May 3, 2012
3. Public Comment 10:25 a.m.
4. Spiny Dogfish Draft Addendum IV for Final Approval **Final Action** 10:30 a.m.
  - Review Options (*D. Chesky*)
  - Public Comment Summary (*D. Chesky*)
  - Technical Committee Report (*D. Chesky*)
  - Advisory Panel Report (*D. Chesky*)
5. Massachusetts Spiny Dogfish 2011 Unreported Landings (*D. Pierce*) 11:15 a.m.
6. Technical Committee Review of New Jersey Smooth Dogfish Request (*B. Winner*) 11:30 a.m.
7. Discussion of State Shark Fin Possession Prohibition Bills 12:00 p.m.
8. Other Business/Adjourn 12:45 p.m.

The meeting will be held at the Crowne Plaza Hotel Old Town, 901 N. Fairfax St, Alexandria, VA;  
(703)-683-6000

*Healthy, self-sustaining populations for all Atlantic coast fish species or successful restoration well in progress by the year 2015*

# MEETING OVERVIEW - UPDATED

## Spiny Dogfish and Coastal Shark Management Board Meeting

Thursday, August 9, 2012

10:15 a.m. – 12:45 p.m.

Alexandria, Virginia

Chair: David Simpson (CT) Assumed Chairmanship: 08/10	Vice Chair: Mark Gibson (RI)	Law Enforcement Committee Representative: Tulik/Frampton
Spiny Dogfish Technical Committee Chair: Vacant	Spiny Dogfish Advisory Panel Chair: Vacant	Previous Board Meeting: May 3, 2012
Coastal Shark Technical Committee Chair: Greg Skomal	Coastal Shark Advisory Panel Chair: Lewis Gillingham	
Voting Members: ME, NH, MA, RI, CT, NY, NJ, DE, MD, VA, NC, SC, GA, FL, NMFS, USFWS (16 votes)		

### 2. Board Consent

- Approval of Agenda
- Approval of Proceeding from May 3, 2012

**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. Spiny Dogfish Draft Addendum IV for Public Comment (10:30-11:15 a.m.) Final Action

#### **Background**

- Draft Addendum IV for Public Comment includes options to revise the overfishing definition consistent with the best available science and Councils. **(Briefing CD).**

#### **Presentations**

- Overview of options by D. Chesky
- Public comment summary by D. Chesky
- Technical Committee Report by D. Chesky
- Advisory Panel Report by D. Chesky

#### **Board actions for consideration**

- Select management options and implementation dates.
- Approve Addendum IV.

<b>5. Massachusetts Spiny Dogfish 2011 Unreported Landings (11:15 – 11:30 a.m.)</b>
<b>Background</b>
<ul style="list-style-type: none"> <li>• Massachusetts documented 2,189,611 pounds of unreported spiny dogfish landings in 2011. The unreported landings came from a non-permitted transportation company that purchased spiny dogfish directly from fishermen.</li> <li>• The memo from Dr. David Pierce to the Board further explains the ongoing situation and the actions being taken by the Commonwealth <b>(Briefing CD)</b>.</li> </ul>
<b>Presentations</b>
<ul style="list-style-type: none"> <li>• Overview by Dr. David Pierce</li> </ul>
<b>Board actions for consideration</b>
<ul style="list-style-type: none"> <li>• Determine how to account for 2011 overages</li> </ul>

<b>6. TC Review of New Jersey Smooth Dogfish Request (11:30 a.m. - 12:00 p.m.)</b>
<b>Background</b>
<ul style="list-style-type: none"> <li>• Addendum I allows commercial fishermen to completely remove the fins of smooth dogfish from March through June of each year and prohibits removal of the dorsal fin from July through February.</li> <li>• New Jersey fishermen have asked that the Board allow commercial fishermen to remove all fins at sea at all times of the year. <b>(Briefing CD)</b>.</li> <li>• The Board tasked the TC to review the New Jersey request <b>(Briefing CD)</b>.</li> </ul>
<b>Presentations</b>
<ul style="list-style-type: none"> <li>• Technical Committee review of New Jersey request by B. Winner.</li> </ul>
<b>Board actions for consideration</b>
<ul style="list-style-type: none"> <li>• Initiate addendum.</li> </ul>

<b>7. Discussion of State Shark Fin Possession Prohibition Bills (12:00 - 12:45 p.m.)</b>
<b>Background</b>
<ul style="list-style-type: none"> <li>• Several state Legislators have proposed bills to prohibit possession of shark fins, in an attempt to prevent finning (removing fins, discarding carcass at sea).</li> <li>• The ASMFC FMP requires that fins remain attached naturally to the carcass through landing to prevent finning.</li> <li>• It is unclear why current regulations are insufficient to prevent finning.</li> </ul>
<b>Presentations</b>
<ul style="list-style-type: none"> <li>• None</li> </ul>

**7. Other Business/Adjourn**

*Atlantic States Marine Fisheries Commission*

**Coastal Sharks Technical Committee**

**Review of Smooth Dogfish Year Round Processing At Sea Request**

June 15, 2012

Present: Russ Babb (ND DEP), Carolyn Belcher (GA CRD, VC), Bryan Frazier (SC DNR), Karyl Brewster-Geisz (NMFS HMS), Julie Neer (SAFMC), Eric Schneider (RI DFW), Greg Skomal (MA DMF, Chair), Holly White (NC DMF), Chris Vonderweidt (ASMFC Staff), Angel Willey (MD DNR), and Brent Winner (FWC).

The Coastal Sharks Technical Committee (TC) held a conference call to review a request by New Jersey commercial fishermen to allow the removal of all smooth dogfish fins at sea at all times of the year. Section 2.3.1 of Addendum I, Smooth Dogfish Processing at Sea, allows commercial fishermen to completely remove all smooth dogfish fins at sea from March - June with a max 5% fin to carcass ratio; the dorsal fin and tail must remain attached naturally to the carcass from July - February. The Board initially discussed this request during their meeting in May, 2012 but requested TC review prior to initiating any management measures. The TC's recommendations follow.

**Background:**

The meeting began with ASMFC staff providing a review of the ASMFC smooth dogfish commercial processing at sea regulations and the history of their development. The 2008 Interstate Fisheries Management Plan for Atlantic Coastal Sharks (FMP) initially required that commercially caught smooth dogfish have all fins attached naturally to the carcass through landing. The current regulations that allow processing at sea from March – June were developed in Addendum I as a combination of a hybrid option developed by the TC, and a North Carolina analysis.

During Addendum I development, the TC expressed concern that juvenile sandbar sharks could be misidentified as smooth dogfish, thereby resulting in mortality of sandbar sharks. Rebuilding the sandbar population was a major driver behind the FMP's final regulations that classify sandbar shark as a research-only species with commercial harvest prohibited. However, the TC also understood that commercial fishermen need to gut and ice smooth dogfish quickly to prevent spoil. As a hybrid option, the TC recommended allowing commercial fishermen to remove the pelvic, pectoral, anal, and second dorsal fins, but keep the tail and dorsal fin attached. The TC believed that fishermen would be able to quickly gut the fish by cutting down the belly (removing the pelvic and pectoral fins); the dorsal fin and tail would allow law enforcement to distinguish smooth dogfish from sandbar sharks.

Around this time, North Carolina submitted a memo with an analysis showing that sandbars are not landed in North Carolina from July – February, so classifying smooth dogfish as sandbars would not be an issue during these months. The TC reviewed the memo and expressed concern

that the seasonality of the sandbar fishery varies by state and the North Carolina data are not applicable for management of the entire coast.

Addendum I final measures are as follows:

### **2.3.1 Smooth Dogfish Processing at Sea**

This Addendum replaces *Section 4.3.1.1 Finning and Identification* of the FMP with the following language, which grants commercial fishermen a limited exemption from the fins attached rule for smooth dogfish only.

#### *4.3.1.1 Finning and Identification*

All sharks, with the exception of smooth dogfish, harvested by commercial fishermen within state boundaries must have the tails and fins attached naturally to the carcass through landing. Fins may be cut as long as they remain attached to the carcass (by natural means) with at least a small portion of uncut skin. Sharks may be eviscerated and have the heads removed. Sharks may not be filleted or cut into pieces at sea.

Commercial fishermen may completely remove the fins of smooth dogfish from March through June<sup>1</sup> of each year. If fins are removed, the total wet weight of the shark fins may not exceed 5 percent of the total dressed weight of smooth dogfish carcasses landed or found on board a vessel. This ratio is consistent with the Shark Finning Prohibition Act of 2000.

From July through February for the smooth dogfish fishery only, commercial fishermen may completely remove the head, tail, pectoral fins, pelvic (ventral) fins, anal fin, and second dorsal fin, but must keep the dorsal fin attached naturally to the carcass through landing<sup>2</sup>. Fins may be cut as long as they remain attached to the carcass (by natural means) with at least a small portion of uncut skin. If fins are removed, the total wet weight of the shark fins may not exceed 5 percent of the total dressed weight of smooth dogfish carcasses landed or found on board a vessel.

In addition to covering the history and development of Addendum I smooth dogfish regulations, ASMFC staff reminded the TC of provisions in the Shark Conservation Act of 2012 (SCA), which the NMFS Highly Migratory Species Division (HMS) intends to implement in an upcoming rulemaking. Specifically, the SCA amends the Magnuson Stevens Act to prohibit:

- Removal of any fins of a shark (including the tail) at sea.
- Possession of any shark fin at sea unless it is naturally attached to a corresponding carcass.

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<sup>1</sup> Sandbar sharks are generally not landed during these months. See section 2.1.2 and Table 2 for more information.

<sup>2</sup> Historically, both sandbar and smooth dogfish have been landed during these months. During the development of this addendum, concern was raised that juvenile sandbars can be confused with smooth dogfish and allowing removal of all fins could open enforcement loopholes. The Technical Committee strongly supported requiring the dorsal fin to remain attached because doing so makes identification quick and accurate, and is necessary with a high volume fishery.

- Transferring (or receiving) any such fins from one vessel to another unless the fins are naturally attached to a corresponding carcass.
- Landing any such fin that is not naturally attached to carcass or landing a shark carcass without fins that are naturally attached.

The SCA also includes a smooth dogfish-specific savings clause specifying:

- The above amendments do not apply to individuals engaged in commercial fishing for smooth dogfish
- Between shore and 50 nautical miles from shore.
- If individual holds valid state commercial fishing license.
- And total weight of fins does not exceed 12% of total weight of smooth dogfish carcasses.

Following the summary of the SCA, the NMFS HMS TC member updated the TC on the rulemaking progress. She informed the TC that the HMS Management Division is working out some of the details of the SCA related to the enforcement action that is triggered when the 12% is exceeded as well as what constitutes a “valid state commercial fishing license” or “engaged in commercial fishing”. Additionally, there are other issues, such as completing a Biological Opinion under Section 7 of the Endangered Species Act for the smoothhound fishery, that the Agency is working through before this rule will be published. As a result, the SCA rule regarding the smoothhound fishery may not be implemented until 2013.

#### **TC Discussion and Recommendations:**

The TC discussed the request in two parts: 1) Smooth dogfish identification, if smooth dogfish logs (fins, head, and tail removed) can be differentiated from sandbar logs; and 2) Appropriate fin to carcass ratio.

##### *Smooth Dogfish Identification:*

With proper training, smooth dogfish logs are distinguishable from sandbar and other shark species. Specifically, smooth dogfish can be identified based on the length of the second dorsal fin base, which is  $\frac{3}{4}$  the length of the first dorsal fin base; the second dorsal fin is much larger than the anal fin. In contrast, the second dorsal fin in the sandbar sharks is much smaller than the first dorsal fin and about the same size as the anal fin.

As long as enforcement is adequately trained to identify smooth dogfish logs, the TC does not oppose allowing commercial fishermen to remove all smooth dogfish fins at sea. However, the ***TC strongly opposes allowing processing at sea if the fin to carcass ratio is set too high.*** Establishing a fin to carcass ratio that is greater than the ratio specific to smooth dogfish creates a loophole that allows fishermen to fin (cut off and keep fins, throw carcass overboard) additional sharks. For example, if the fin to carcass ratio is set 4% greater, a fisherman could add an additional 4% weight of fins from other species of sharks. The smooth dogfish commercial fishery is high volume and exceeding the appropriate fin to carcass ratio by even 1% could allow for a significant weight of additional fins to be landed. Currently the appropriate smooth dogfish fin to carcass ratio is unknown.

### *Appropriate Fin to Carcass Ratio*

As described above, allowing commercial fishermen to process smooth dogfish at sea with an inaccurate smooth dogfish fin to carcass ratio would create a loophole that allows for finning. Unfortunately, there are no robust analyses that have looked at smooth dogfish fin to carcass ratios to guide the TC's recommendation. The TC discussed the paper "Preliminary Reassessment of the Validity of the 5% Fin to Carcass Weight Ratio for Sharks" by Cortes and Neer (2006) and a North Carolina memo that discusses smooth dogfish fin to carcass ratios. The former paper begins by explaining how the 5% fin to carcass ratio was included in the 1993 U.S. Fishery Management Plan (FMP) for Sharks of the Atlantic Ocean based on the wet fin to carcass ratio of 12 sandbar shark specimens. The paper presents fin to carcass ratios for several shark species and calculated a 3.51% fin to carcass ratio for smooth dogfish (*Mustelis canis*) based on 6 samples.

The TC does not endorse 3.51% as the appropriate smooth dogfish fin to carcass ratio with a sample size of only 6 fish. However, the results are considerably lower than the 12% in the SCA which may indicate that the correct ratio lies somewhere in between.

The North Carolina Memo presents an analysis of NC Trip Ticket fin and carcass weights by trip from 2004 – 2009 and finds that the fin to carcass ratio varied from 9.8 – 10.4%. The TC does not endorse the results of the NC trip ticket because the weights were not observed by North Carolina Department of Marine Resources staff and was calculated from the bulk sum of all fish caught on a trip (as opposed to weighing each individual fish). However, similar to the Neer and Cortes paper, the TC agrees that the NC Memo results indicate that the correct ratio is likely different from the current 5%.

### *Development of an Appropriate Fin to Carcass Ratio*

TC members from Massachusetts, New Jersey, North Carolina, and South Carolina agreed to begin weighing individual smooth dogfish as a comprehensive study to determine a scientifically valid smooth dogfish fin to carcass ratio. Members from these states will develop a method to collect weights and will work with industry to cut the fins as commercial fishermen do. Members agreed that this study could be completed in 3 – 6 months and hope that managers postpone action on smooth dogfish regulations until after the correct weight is determined.

Preliminary discussions indicate that the following will be considered and possibly incorporated into methodology of the study:

- Work with fishermen to determine how smooth dogfish are processed at sea and mimic that technique.
- Standardization of processing techniques (in absence of regional cutting differences). Differences such as a straight or curved cut can impact %.
- Look at fin to carcass ratios of individual animals. This will provide estimates of variability between individuals.



# Atlantic States Marine Fisheries Commission

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## MEMORANDUM

August 1, 2012

**To: Spiny Dogfish and Coastal Sharks Fishery Management Board**  
**From: Danielle Chesky, Fishery Management Plan Coordinator**  
**Subject: Law Enforcement Comments on Shark Finning**

The following comments were collected from Law Enforcement Committee members along with federal partners. Staff summarized comments for the Board's review.

Most individuals commented that there are few if any issues with shark finning in their states. In states where bills prohibiting possession, sale and trade of fins were introduced, there was not support for these measures from law enforcement officials, citing state and federal laws already in existence that addressed finning. However, comments from Virginia did indicate challenges for law enforcement officials to enforce finning regulations in high-volume fisheries, like smooth dogfish, without DNA or other reliable relationship to match fins to carcasses. There was support from this state for allowing fins to be partially detached, allowing for easier packing of bodies while still retaining the fins to the body to allow easier detection of violation by law enforcement officials. Federal comments indicated some cases have been investigated along the coast but emphasized the need to enforce current regulations on the books. The point was made that to prohibit the possession of fins altogether would likely require shutting down the taking of sharks altogether, as it would be impractical for fishermen and wasteful to dispose of the fins.

M12-058



Secretariat at one of the addressees shown below on or before September 10, 2012 to be considered in the formation of the final rule.

**ADDRESSES:** Submit comments in response to FAR case 2012–018 by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for “FAR Case 2012–018”. Select the link “Submit a Comment” that corresponds with “FAR Case 2012–018.” Follow the instructions provided at the “Submit a Comment” screen. Please include your name, company name (if any), and “FAR Case 2012–018” on your attached document.

- *Fax:* 202–501–4067.

- *Mail:* General Services

Administration, Regulatory Secretariat (MVCB), ATTN: Hada Flowers, 1275 First Street NE., 7th Floor, Washington, DC 20417.

*Instructions:* Please submit comments only and cite FAR Case 2012–018, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr. Edward N. Chambers, Procurement Analyst, at 202–501–3221 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAR Case 2012–018.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

FAR 15.404–1(b)(2) addresses various price analysis techniques and procedures the Government may use to ensure a fair and reasonable price. FAR 15.404–1(b)(2)(i) discusses the comparison of proposed prices received in response to a solicitation as an example of such techniques and procedures. In this discussion, FAR 15.404–1(b)(2)(i) references 15.403–1(c)(1), which sets forth the requirements of adequate price competition. However, only 15.403–1(c)(1)(i) actually addresses the situation when two or more responsible offerors, competing independently, submit priced offers that satisfy the Government’s expressed requirement. Therefore, the reference in 15.404–1(b)(2)(i) is more appropriately identified as 15.403–1(c)(1)(i).

##### **II. Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 (E.O.s) direct agencies to assess all costs

and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

##### **III. Regulatory Flexibility Act**

DoD, GSA, and NASA do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because this rule merely clarifies the reference at FAR 15.404–1(b)(2)(i) for the use of the price analysis technique at 15.403–1(c)(1)(i) in order to establish a fair and reasonable price. However, an initial regulatory flexibility analysis (IRFA) has been prepared consistent with 5 U.S.C. 603, and is summarized as follows:

This rule amends the FAR at 15.404–1(b)(2)(i) to clarify the use of the price analysis technique at 15.403–1(c)(1)(i) in order to establish a fair and reasonable price. FAR 15.404–1(b)(2) addresses various price analysis techniques and procedures the Government may use to ensure a fair and reasonable price. FAR 15.404–1(b)(2)(i) discusses the comparison of proposed prices received in response to a solicitation as an example of such techniques and procedures. In this discussion, FAR 15.404–1(b)(2)(i) references 15.403–1(c)(1), which sets forth the requirements of adequate price competition. However, only FAR 15.403–1(c)(1)(i) actually addresses the situation when two or more responsible offerors, competing independently, submit priced offers that satisfy the Government’s expressed requirement. Therefore, the reference in 15.404–1(b)(2)(i) is more appropriately identified as 15.403–1(c)(1)(i). The proposed rule imposes no reporting, recordkeeping, or other information collection requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules, and there are no known significant alternatives to the rule.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this proposed rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR case 2012–018), in correspondence.

##### **IV. Paperwork Reduction Act**

The proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

##### **List of Subjects in 48 CFR Part 15**

Government procurement.

Dated: July 3, 2012.

**Laura Auletta,**

*Director, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.*

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 15 as set forth below:

##### **PART 15—CONTRACTING BY NEGOTIATION**

1. The authority citation for 48 CFR part 15 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

##### **15.404–1 [Amended]**

2. Amend section 15.404–1 by removing from paragraph (b)(2)(i) “15.403–1(c)(1)” and adding “15.403–1(c)(1)(i)” in its place.

[FR Doc. 2012–16709 Filed 7–9–12; 8:45 am]

**BILLING CODE 6820–EP–P**

#### **DEPARTMENT OF COMMERCE**

##### **National Oceanic and Atmospheric Administration**

##### **50 CFR Part 300**

[Docket No. 110321208–1203–01]

**RIN 0648–BA89**

##### **High Seas Driftnet Fishing Moratorium Protection Act; Identification and Certification Procedures To Address Shark Conservation**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This proposed action sets forth identification and certification

procedures established by the Shark Conservation Act to address shark conservation in areas beyond any national jurisdiction. The objectives of these procedures are to promote the conservation and sustainable management of sharks. Agency actions and recommendations under this rule will be in accordance with U.S. obligations under applicable international trade law, including the World Trade Organization (WTO) Agreement. This action would also amend the definition of illegal, unreported, or unregulated (IUU) fishing for purposes of the High Seas Driftnet Fishing Moratorium Protection Act.

**DATES:** Written comments must be received no later than 5 p.m. Eastern time on August 9, 2012.

NMFS is soliciting feedback on the proposed rule. Information and comments concerning this proposed rule may be submitted by any one of several methods (see **ADDRESSES**). Information related to the international fisheries provisions of the Moratorium Protection Act can be found on the NMFS Web site at <http://www.nmfs.noaa.gov/msa2007/intlprovisions.html>. NMFS will consider all comments and information received during the comment period in preparing a final rule.

**ADDRESSES:** Written comments on this action, identified by RIN 0648-BA89, may be submitted by any of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal at <http://www.regulations.gov>.
- **Mail:** Laura Cimo, Trade and Marine Stewardship Division, Office of International Affairs, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**Instructions:** All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Laura Cimo, Trade and Marine Stewardship Division, Office of

International Affairs, NMFS, at (301) 427-8359.

**SUPPLEMENTARY INFORMATION:**

**Background**

On January 12, 2011, the National Marine Fisheries Service (NMFS) published a final rule establishing identification and certification procedures to address illegal, unreported, or unregulated (IUU) fishing activities and bycatch of protected living marine resources (PLMRs) pursuant to the High Seas Driftnet Fishing Moratorium Protection Act (Moratorium Protection Act) (76 FR 2011) (50 CFR 300.200 *et seq.*) (16 U.S.C. 1826h-k). The identification and certification procedures must be amended to reflect recent statutory amendments to the Moratorium Protection Act. These amendments were included in the Shark Conservation Act (Pub. L. 111-348), which was enacted on January 4, 2011.

Sharks present an array of challenges for fisheries conservation and management due to their biological characteristics and lack of general data reported on catch of each species. Many shark species are characterized by relatively slow growth, late maturity, and low reproductive rates, which can make them particularly vulnerable to overexploitation and slow to recover. As demand and exploitation rates for some shark species, and particularly for shark fins, have increased, concern has grown regarding the status of many shark stocks and the sustainability of their exploitation in global fisheries.

The United States continues to be a leader in promoting shark conservation and management globally. We are committed to working bilaterally and multilaterally to promote shark conservation and management, and prevent shark finning so that legal and sustainable fisheries are not disadvantaged by these activities. In particular, the United States wants to ensure that its own import market does not encourage unsustainable activity.

Under the amendments in the Shark Conservation Act, the Secretary of Commerce is required to identify a foreign nation if: (a) the nation's fishing vessels are engaged or have been engaged during the preceding calendar year, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks; and (b) the nation has not adopted a regulatory program for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding of the carcass of the shark at sea, that is comparable to that of the United

States, taking into account different conditions. The amendments also call upon the Secretary of Commerce to begin making identifications no later than January 4, 2012.

NMFS solicited information from the public on activities of fishing vessels from foreign nations engaged in shark catch beyond any national jurisdiction on March 24, 2011 (76 FR 16616), and indicated that it anticipated making the first identifications under this statute by January 4, 2012. However, upon further reflection and review of the statute, NMFS proposes to begin the process of making identifications by January 4, 2012, and publish the first identifications in the January 2013 Biennial Report to Congress, coincident with the next identification process under the IUU fishing and bycatch provisions of the Moratorium Protection Act. This approach is consistent with the statute and will treat all identified nations equally. If identifications were made in January 2012, it would have provided potentially-affected foreign nations only one year to become familiar with the new shark provisions before identification decisions were made and only one year to take the necessary actions to receive a positive certification. NMFS has already started collecting and analyzing information that could help the agency determine which nations may have vessels engaging in fishing activities or practices on the high seas that target or incidentally catch sharks.

The Secretary of Commerce will issue either a positive or negative certification to each nation that is identified in the biennial report to Congress. In the unlikely event that the Secretary of Commerce does not make a certification decision, alternative certification procedures may be applied. A positive certification indicates that the nation has taken the necessary actions pursuant to the Moratorium Protection Act. If an identified nation does not receive a positive certification, fishing vessels of such nation would be, to the extent consistent with international law, subject to the denial of entry into any place in the United States and to the navigable waters of the United States. Additionally, if an identified nation does not receive a positive certification, the Secretary of Commerce shall so notify the President of the United States. This notification may include recommendations to prohibit the importation of certain fish and fish products from the identified nation. The Secretary of Commerce will recommend to the President appropriate measures, including trade restrictive measures, to be taken against identified nations that

have not received a positive certification, to address the fishing activities or practices for which such nations were identified in the biennial report. The Secretary of Commerce will make such recommendations on a case by case basis in accordance with international obligations, including the WTO Agreement. Upon this notification, the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a) authorizes the President to direct the Department of Treasury to prohibit the importation of certain fish and fish products from such nation.

If certain fish and fish products are prohibited from entering the United States, within six months after the imposition of the prohibition, the Secretary of Commerce shall determine whether the prohibition is insufficient to cause that nation to effectively address the shark catch described in the biennial report, or that nation has retaliated against the United States as a result of that prohibition. The Secretary of Commerce shall certify to the President each affirmative determination that an import prohibition is insufficient to cause a nation to effectively address such shark catch or that a nation has taken retaliatory action against the United States. This certification is deemed to be a certification under section 1978(a) of Title 22, which provides that the President may direct the Secretary of the Treasury to prohibit the bringing or the importation into the United States of any products from the offending country for any duration as the President determines appropriate and to the extent that such prohibition is sanctioned by the WTO.

The final rule establishing identification and certification procedures pursuant to the Moratorium Protection Act (published on January 12, 2011) also set forth a definition of IUU fishing for purposes of the Moratorium Protection Act (50 CFR 300.201). In response to public comments on the rule, NMFS committed to consider amending this regulatory definition in a subsequent rulemaking to make any necessary technical changes and incorporate suggestions made by the public. Through this action, NMFS also proposes to amend the definition of IUU fishing to include fishing activities that violate shark conservation measures required under an international fishery management agreement to which the United States is a party. Amendments to the Identification and Certification Procedures to Address Shark Conservation.

Pursuant to the Shark Conservation Act, NMFS proposes to amend the identification and certification procedures under the Moratorium Protection Act. This will provide for the identification of a foreign nation if fishing vessels of that nation are engaged, or have been engaged during the preceding calendar year, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks, and the nation has not adopted a regulatory program for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discard the carcass of the shark at sea, that is comparable in effectiveness to that of the United States, taking into account different conditions. When making identification decisions, NMFS will take into account whether the nation has adopted a regulatory program for the conservation and management of sharks in their domestic waters that could have bearing on shark conservation on the high seas. NMFS does not intend to identify nations, or issue a negative certification for identified nations, on the basis of a nation's failure to establish a comparable regulatory program in their domestic waters if the regulatory deficiency is not relevant to the nation's regulation of high seas shark catch. When determining whether a nation could potentially be identified for these activities through the process set forth in final regulations that were published on January 12, 2011 (76 FR 2011), NMFS will review, evaluate and verify relevant information obtained from credible sources by the agency demonstrating that foreign-flagged vessels engaged in fishing activities or practices in areas beyond any national jurisdiction that targeted or incidentally caught sharks during the relevant timeframe. This information could include data gathered by the U.S. Government as well as offered by other nations, international organizations (such as regional fisheries management organizations), institutions, bilateral or other arrangements, or non-governmental organizations.

Corroboration of information may be addressed through cooperation with governments, international organizations, non-governmental organizations, and through use of other credible information as appropriate. NMFS, acting through or in consultation with the State Department, may as appropriate initiate bilateral discussions with the nation whose vessels engaged in such fishing activities to:

- Communicate the provisions of the Moratorium Protection Act to the nation;
  - Provide an opportunity for nations to provide additional information on the fishing activities of particular vessels; and
  - Determine if the nation has adopted a regulatory program for the conservation of sharks for their vessels fishing on the high seas, including measures to prohibit the removal of any of the fins of a shark (including the tail) and discard the carcass of the shark at sea, that is comparable in effectiveness to that of the United States, taking into account different conditions.
- When making its identification decisions, NMFS will take into account relevant matters, including, but not limited to, the history, nature, circumstances, and gravity of the fishing activities that targeted or incidentally caught sharks in areas beyond any national jurisdiction. NMFS will also take into account any actions taken by the nation that are relevant to the conservation and sustainable management of sharks in areas beyond any national jurisdiction, including:
- If the nation has adopted a regulatory program for the conservation of sharks;
  - Participation in cooperative research activities designed to mitigate the impacts of fishing activities that result in the incidental catch of sharks;
  - Programs for data collection and sharing, including programs to assess the abundance and status of sharks and observer programs; and
  - The adoption and use of strategies, techniques, and equipment for the reduction and mitigation of shark bycatch, if vessels of the nation have shark bycatch.

If any relevant international organization or regional fishery management organization (RFMO) has adopted measures for the conservation and sustainable management of sharks, NMFS will consider whether the nation is a party or cooperating non-party to the organization, and/or whether the nation has implemented such measures.

By January 4, 2012, NMFS began the process of making identifications of nations whose fishing vessels engaged in fishing activities or practices on the high seas that target or incidentally catch sharks and have not adopted a regulatory program for the conservation of sharks on the high seas, including measures to prohibit removal of any of the fins of the shark (including the tail) and discard the carcass of the shark at sea, that is comparable in effectiveness to that of the United States, taking into account different conditions.

Identifications will be published in the biennial report to Congress, as required by the Moratorium Protection Act. The next biennial report is due to Congress on January 12, 2013.

Nations will be notified of their identification under the Moratorium Protection Act, and NMFS, acting through or in consultation with the State Department, will initiate consultations to encourage identified nations to take the necessary actions pursuant to the Moratorium Protection Act.

Although the Secretary of Commerce is authorized not to issue a certification decision to an identified nation under the Moratorium Protection Act, the Secretary of Commerce will issue either a positive or negative certification to each identified nation, which will be published in the subsequent biennial report to Congress, for all nations that are identified.

In determining whether to issue a positive or negative certification for each identified nation, the Secretary of Commerce, in consultation with the Secretary of State, will take into account all relevant facts and circumstances, including, but not limited to, the record of consultations with such nation, results of these consultations, and actions taken by the nation and any applicable RFMO to address the fishing activities of concern described in the biennial report.

To receive a positive certification, any nation that is identified as having fishing vessels engaged in fishing activities or practices on the high seas that target or incidentally catch sharks will need to provide documentary evidence of the adoption of a regulatory program for the conservation of sharks that is comparable in effectiveness to that of the United States, taking into account different conditions, including conditions that could bear on the feasibility and effectiveness of these measures. In order to receive a positive certification, such nation will also need to establish a management plan that assists in the collection of species-specific data.

When evaluating whether an identified nation whose pelagic longline vessels engaged in fishing activities or practices on the high seas that target or incidentally catch sharks has adopted a regulatory program for the conservation of sharks that is comparable in effectiveness to that of the United States, the proposed rule would not require the regulatory program to include the mandatory use of circle hooks, as specified for nations identified under Section 610 of the Moratorium Protection Act, since there is scientific

uncertainty about the impact of circle hook use on shark bycatch and the United States does not require the use of circle hooks in its fisheries to mitigate shark bycatch.

NMFS will notify nations prior to a formal certification determination, and will provide such nations an opportunity to support and/or refute preliminary certification determinations, and communicate actions taken to adopt a regulatory program for the conservation of sharks that is comparable in effectiveness to that of the United States, taking into account different conditions, and establish a management plan that assists in the collection of species-specific data. The Secretary of Commerce shall consider any relevant information received during consultations when making its formal certification determination.

#### **Changes to the IUU Fishing Definition**

NMFS proposes to amend the definition of IUU fishing, consistent with the purposes of the Moratorium Protection Act, in order to more comprehensively address IUU fishing, and thus more effectively address this serious problem that threatens the sustainable management of the world's fisheries.

First, NMFS proposes to amend the IUU fishing definition to clarify its application to fishing activities conducted by fishing vessels of both party and non-party nations to international fishery management agreements to which the United States is a party. The first paragraph of the current IUU fishing definition addresses fishing activities that violate conservation and management measures of an RFMO to which the United States is a party. NMFS proposes to amend this paragraph to clarify that it is intended to apply to nations that are a party to the relevant international fishery agreement. NMFS also proposes to add a new paragraph clarifying that, in the case of non-parties to an international fishery management agreement to which the United States is a party, fishing activities that would undermine the conservation of the resources managed under that agreement can be IUU fishing.

Second, pursuant to the Shark Conservation Act, NMFS proposes to amend the IUU fishing definition to explicitly include fishing activities in violation of shark conservation measures that are required by an RFMO to which the United States is a party.

Third, NMFS proposes to clarify that the IUU fishing definition applies when a nation fails to report or fails to provide

accurate or complete data and information regarding its vessels' fishing activities as required by an RFMO to which the United States is a party. By adding an explicit reference to reporting, NMFS intends to highlight the importance of compliance with RFMO data collection requirements to support effective fisheries management.

Fourth, NMFS proposes to amend the IUU fishing definition to include fishing activities conducted by foreign flagged vessels in waters under U.S. jurisdiction without authorization of the United States. Such activities undermine the ability of the United States to sustainably manage its fisheries.

In determining whether to make an IUU fishing identification, NMFS will take into account all relevant information, in accordance with § 300.202(a)(2). In addition, when determining whether to identify a foreign nation for having vessels engaged in fishing activities within the U.S. exclusive economic zone (EEZ) without authorization of the United States, NMFS will consider any actions taken by the United States, the flag State and, where relevant, the international fishery management organization, to address those activities, as well as the effectiveness of such actions.

#### **Application of IUU Fishing Identification Criteria**

In addition to the regulatory changes identified above, NMFS is reconsidering the manner in which it has applied Section 609 of the Moratorium Protection Act and its implementing regulations. To date, NMFS has primarily applied this Act and implementing regulations to identify a nation when the nation's vessels were engaged in illegal, unregulated, or unreported fishing activity that was directly attributable to specific vessel conduct. In future identifications, NMFS intends to identify nations based on fishing activity that was illegal, unreported, or unregulated because of either the vessels' conduct or the nation's actions or inactions in managing its fisheries.

After two cycles of identification, NMFS has determined that these provisions could be applied more broadly. In order to more comprehensively address IUU fishing, we must consider not only the prohibited actions of fishing vessels but also non-compliance in the form of action or inaction at the national level that leads to IUU fishing. To further this goal, NMFS is proposing to identify a nation based on the nation's actions or inactions that lead to fishing by vessels registered under their flag that is not in

accordance with RFMO conservation and management measures. For example, under this approach, NMFS could identify a nation when the nation has failed to implement measures that are required by an RFMO to which the United States is a party, and as a result the fishing vessels of that nation operated in a manner inconsistent with the relevant RFMO conservation and management measures.

This approach is consistent with the plain language of the statutory guidelines provided in Section 609(e)(3)(A) of the Moratorium Protection Act for the IUU fishing definition. These statutory guidelines specifically mention certain RFMO conservation and management measures, such as catch limits or quotas, that must be implemented by nations that are parties to the RFMO and cannot necessarily be attributed to specific fishing vessels. For example, RFMOs can establish quotas for their member nations. Each nation bears the responsibility for implementing and adhering to the quota it received. Individual fishing vessels, therefore, cannot be found in violation of the RFMO's quota, but action or inaction by the flag nation could result in fishing activity in violation of the quota. In addition to specific situations mentioned in the minimum statutory guidelines for the IUU fishing definition, there are other circumstances in which fishing activities might violate RFMO measures because of a nation's failure to govern its own fishing vessels or carry out its own responsibilities. For example, RFMOs require parties to implement data reporting requirements. In most cases, the nations, and not individual vessels, compile and report the requisite information to comply with RFMO conservation and management measures. Because many measures are inherently a nation's responsibility, Congress evidently intended NMFS to be able to identify a nation based on its failure to fulfill the requirements of the relevant RFMO and the operations of the nation's fisheries in light of this failure.

Under the proposed approach, a nation could be identified for fishing activities that were illegal, unregulated, or unreported because of national action or inaction, including, consistent with the examples discussed above, fishing activities that resulted in the nation exceeding a harvest quota granted by the relevant RFMO because the nation failed to implement measures to prevent such overharvest, and fishing activities that were not reported because the nation failed to carry out its

responsibilities for reporting to ensure collection of such information.

#### Classification

This proposed rule is published under the authority of the Moratorium Protection Act, 16 U.S.C. 1826d–1826k, as amended by the Shark Conservation Act (Pub. L. 111–348).

This proposed rulemaking has been determined to be significant for the purposes of Executive Order 12866.

Pursuant to section 605 of the Regulatory Flexibility Act, the Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. In this rulemaking, NMFS proposes to amend the identification and certification procedures under the Moratorium Protection Act to prevent shark finning and to promote the conservation and sustainable harvest of sharks by fishing vessels of foreign nations, as required under the Shark Conservation Act (Pub. L. 111–348).

A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. Briefly, under the proposed regulations, NMFS would identify a foreign nation in a biennial report to Congress if fishing vessels of that nation have been engaged during the preceding calendar year in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks and the nation has not adopted a regulatory program for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discarding of the carcass of the shark at sea, that is comparable to that of the United States, taking into account different conditions. The Secretary of Commerce will issue either a positive or negative certification to each nation that is identified in the biennial report to Congress. A positive certification would demonstrate that the nation has taken the necessary corrective action to address the fishing activities of concern described in the biennial report to Congress. Nations identified for having fishing vessels engaged in shark catch on the high seas that do not receive a positive certification from the Secretary of Commerce may be subject to measures imposed by the Secretary of the Treasury under the High Seas Driftnet Fisheries Enforcement Act (16 U.S.C. 1826a). Such measures include the

denial of port privileges of fishing vessels of those nations, and, as directed by the President, prohibition on the importation into the United States of certain fish and fish products caught by the vessels engaged in the relevant activity for which the nations were identified, or other measures.

To receive a positive certification, any nation that is identified as having fishing vessels engaged in fishing activities or practices on the high seas that target or incidentally catch sharks will need to provide documentary evidence of the adoption of a regulatory program for the conservation of sharks that is comparable in effectiveness to that of the United States, taking into account different conditions, including conditions that could bear on the feasibility and effectiveness of measures. Prior to being issued a positive certification, such nation will also need to establish a management plan that assists in the collection of species-specific data in order to receive a positive certification.

Because the proposed regulations are purely procedural in nature, and only set out how NMFS is to make decisions regarding certifications for nations that have been identified in the biennial report to Congress, there are no direct economic impacts on small or large entities. Therefore, the proposed regulations will not have a significant economic impact on a substantial number of small entities and do not need to be analyzed under the Regulatory Flexibility Act. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains collection-of-information requirements for §§ 300.206(b)(2), 300.207(c), and 300.208(c) subject to review and approval by OMB under the Paperwork Reduction Act (PRA). The collection-of-information requirements have been provided to OMB.

#### List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Antarctica, Canada, Exports, Fish, Fisheries, Fishing, Imports, Indians, Labeling, Marine resources, Reporting and recordkeeping requirements, Russian Federation, Transportation, Treaties, Wildlife.

Dated: July 5, 2012.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for part 300 continues to read as follows:

Authority: Moratorium Protection Act, 16 U.S.C. 1826d–1826k

2. Section 300.200 is revised to read as follows:

§ 300.200 Purpose and scope.

The purpose of this subpart is to implement the requirements in the High Seas Driftnet Fishing Moratorium Protection Act (“Moratorium Protection Act”) to identify and certify nations whose vessels engaged in illegal, unreported, or unregulated fishing; whose fishing activities result in bycatch of protected living marine resources; or whose vessels engaged in fishing activities or practices on the high seas that target or incidentally catch sharks where the nation has not adopted a regulatory program for the conservation of sharks, comparable in effectiveness to that of the United States, taking into account different conditions. This language applies to vessels entitled to fly the flag of the nation in question. Where the Secretary of Commerce determines that an identified nation has not taken the necessary actions to warrant receipt of a positive certification, the Secretary of Commerce may recommend to the President that the United States prohibit the importation of certain fish and fish products from the identified nation or other measures. The Secretary of Commerce will recommend to the President appropriate measures, including trade restrictive measures, to be taken against identified nations that have not received a positive certification, to address the fishing activities or practices for which such nations were identified in the biennial report. The Secretary of Commerce will make such a recommendation on a case-by-case basis in accordance with international obligations, including the WTO Agreement. The Moratorium Protection Act also authorizes cooperation and assistance to nations to take action to combat illegal, unreported, or unregulated fishing, reduce bycatch of protected living

marine resources, and achieve shark conservation.

3. In § 300.201, the definition of “Illegal, unreported, or unregulated (IUU) fishing” is revised to read as follows:

§ 300.201 Definitions.

\* \* \* \* \*

Illegal, unreported, or unregulated (IUU) fishing means:

(1) In the case of parties to an international fishery management agreement to which the United States is a party, fishing activities that violate conservation and management measures required under an international fishery management agreement to which the United States is a party, including but not limited to catch limits or quotas, capacity restrictions, bycatch reduction requirements, shark conservation measures, and data reporting;

(2) In the case of non-parties to an international fishery management agreement to which the United States is a party, fishing activities that would undermine the conservation of the resources managed under that agreement;

(3) Overfishing of fish stocks shared by the United States, for which there are no applicable international conservation or management measures, or in areas with no applicable international fishery management organization or agreement, that has adverse impacts on such stocks; or,

(4) Fishing activity that has a significant adverse impact on seamounts, hydrothermal vents, cold water corals and other vulnerable marine ecosystems located beyond any national jurisdiction, for which there are no applicable conservation or management measures or in areas with no applicable international fishery management organization or agreement.

(5) Fishing activities by foreign flagged vessels in U.S. waters without authorization of the United States.

\* \* \* \* \*

4. In § 300.202, paragraphs (a)(2) and (d)(1) are revised to read as follows:

§ 300.202 Identification and certification of nations engaged in illegal, unreported, or unregulated fishing activities.

(a) \* \* \*

(2) When determining whether to identify a nation as having fishing vessels engaged in IUU fishing, NMFS will take into account all relevant matters, including but not limited to the history, nature, circumstances, extent, duration, and gravity of the IUU fishing activity in question, and any measures that the nation has implemented to address the IUU fishing activity. NMFS

will also take into account whether an international fishery management organization exists with a mandate to regulate the fishery in which the IUU activity in question takes place. If such an organization exists, NMFS will consider whether the relevant international fishery management organization has adopted measures that are effective at addressing the IUU fishing activity in question and, if the nation whose fishing vessels are engaged, or have been engaged, in IUU fishing is a party to, or maintains cooperating status with, the organization. NMFS will also take into account any actions taken or on-going proceedings by the United States and/or flag State to address the IUU fishing activity of concern as well as the effectiveness of such actions.

\* \* \* \* \*

(d) \* \* \*

(1) The Secretary of Commerce shall issue a positive certification to an identified nation upon making a determination that such nation has taken appropriate corrective action to address the activities for which such nation has been identified in the biennial report to Congress. When making such determination, the Secretary shall take into account the following:

(i) Whether the government of the nation identified pursuant to paragraph (a) of this section has provided evidence documenting that it has taken corrective action to address the IUU fishing activity described in the biennial report;

(ii) Whether the relevant international fishery management organization has adopted and, if applicable, the identified member nation has implemented and is enforcing, measures to effectively address the IUU fishing activity of the identified nation’s fishing vessels described in the biennial report;

(iii) Whether the United States has taken enforcement action to effectively address the IUU fishing activity of the identified nation described in the biennial report; and

(iv) Whether the identified nation has cooperated in any action taken by the United States to address the IUU fishing activity described in the biennial report.

\* \* \* \* \*

§ 300.203 [Amended]

5. In Section 300.203, paragraphs (a)(1), (a)(2), and (c)(1) are revised; paragraph (c)(2) is redesignated as paragraph (c)(3), and a new paragraph (c)(2) is added to read as follows:

(a) \* \* \*

(1) NMFS will identify and list, in the biennial report to Congress nations—

(i) whose fishing vessels are engaged, or have been engaged during the preceding calendar year prior to publication of the biennial report to Congress, in fishing activities or practices either in waters beyond any national jurisdiction that result in bycatch of a PLMR, or in waters beyond the U.S. EEZ that result in bycatch of a PLMR that is shared by the United States;

(ii) if the nation is a party to or maintains cooperating status with the relevant international organization with jurisdiction over the conservation and protection of the relevant PLMRs, or a relevant international or regional fishery organization, and the organization has not adopted measures to effectively end or reduce bycatch of such species; and

(iii) the nation has not implemented measures designed to end or reduce such bycatch that are comparable in effectiveness to U.S. regulatory requirements, taking into account different conditions that could bear on the feasibility and efficacy of comparable measures.

(2) When determining whether to identify nations as having fishing vessels engaged in PLMR bycatch, NMFS will take into account all relevant matters including, but not limited to, the history, nature, circumstances, extent, duration, and gravity of the bycatch activity in question.

\* \* \* \* \*

(c) \* \* \*

(1) Initiate consultations within 60 days after submission of the biennial report to Congress with the governments of identified nations for the purposes of encouraging adoption of a regulatory program for protected living marine resources that is comparable in effectiveness to that of the United States, taking into account different conditions, and establishment of a management plan that assists in the collection of species-specific data;

(2) Seek to enter into bilateral and multilateral treaties with such nations to protect the PLMRs from bycatch activities described in the biennial report; and

\* \* \* \* \*

6. Section 300.204 is redesignated as § 300.205 and a new § 300.204 is added to read as follows:

**§ 300.204 Identification and certification of nations whose vessels engaged in shark catch.**

(a) *Procedures to identify nations if fishing vessels of that nation are engaged in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally*

*catch sharks during the preceding calendar year.—*

(1) NMFS will identify and list in the biennial report to Congress nations—

(i) whose fishing vessels are engaged, or have been engaged during the calendar year prior to publication of the biennial report to Congress, in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks; and

(ii) where that nation has not adopted a regulatory program to provide for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discard the carcass of the shark at sea, that is comparable in effectiveness to that of the United States, taking into account different conditions, including conditions that could bear on the feasibility and effectiveness of measures.

(2) When determining whether to identify nations for these activities, NMFS will take into account all relevant matters including, but not limited to, the history, nature, circumstances, duration, and gravity of the fishing activity of concern.

(b) *Notification of nations identified as having fishing vessels engaged in fishing activities or practices that target or incidentally catch sharks.* Upon identifying in the biennial report to Congress a nation whose vessels engaged in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks, the Secretary of Commerce will notify the President of such identification. Within 60 days after submission of the biennial report to Congress, the Secretary of Commerce, acting through or in consultation with the Secretary of State, will notify identified nations about the requirements under the Moratorium Protection Act and this subpart N.

(c) *Consultations and negotiations.* Upon submission of the biennial report to Congress, the Secretary of Commerce, acting through or in consultation with the Secretary of State, will:

(1) Initiate consultations within 60 days after submission of the biennial report to Congress with the governments of identified nations for the purposes of encouraging adoption of a regulatory program for the conservation of sharks that is comparable in effectiveness to that of the United States, taking into account different conditions, and establishment of a management plan that assists in the collection of species-specific data;

(2) Seek to enter into bilateral and multilateral treaties or other

arrangements with such nations to protect sharks; and

(3) Seek agreements through the appropriate international organizations calling for international restrictions on the fishing activities or practices described in the biennial report and, as necessary, request the Secretary of State to initiate the amendment of any existing international treaty to which the United States is a party for the conservation of sharks to make such agreements consistent with this subpart.

(d) *International Cooperation and Assistance.* To the greatest extent possible, consistent with existing authority and the availability of funds, the Secretary shall:

(1) Provide appropriate assistance to nations identified by the Secretary under paragraph (a) of this section and international organizations of which those nations are members to assist those nations in qualifying for a positive certification under paragraph (e) of this section;

(2) Undertake, where appropriate, cooperative research activities on species assessments and harvesting techniques aimed at mitigating or eliminating the non-target catch of sharks, with those nations or organizations;

(3) Encourage and facilitate the transfer of appropriate technology to those nations or organizations to assist those nations in qualifying for positive certification under paragraph (e) of this section; and

(4) Provide assistance to those nations or organizations in designing, implementing, and enforcing appropriate fish harvesting plans for the conservation and sustainable management of sharks.

(e) *Procedures to certify nations identified as having fishing vessels engaged in fishing activities or practices that target or incidentally catch sharks.—*Each nation that is identified as having fishing vessels engaged in fishing activities or practices in waters beyond any national jurisdiction that target or incidentally catch sharks and has not adopted a regulatory program for the conservation of sharks, including measures to prohibit removal of any of the fins of a shark (including the tail) and discard the carcass of the shark at sea, that is comparable to that of the United States, taking into account different conditions, shall receive either a positive or a negative certification from the Secretary of Commerce. This certification will be published in the biennial report to Congress. The Secretary of Commerce shall issue a positive certification to an identified



nation upon making a determination that:

(1) Such nation has provided evidence documenting its adoption of a regulatory program for the conservation of sharks that is comparable in effectiveness to regulatory measures required under U.S. law in the relevant fisheries, taking into account different conditions, including conditions that could bear on the feasibility and effectiveness of measures; and (ii) Such nation has established a management plan that will assist in the collection of species-specific data on sharks to support international stock assessments and conservation efforts for sharks.

(2) Prior to a formal certification determination, nations will be provided with preliminary certification determinations, and an opportunity to support and/or refute the preliminary determinations, and communicate actions taken to adopt a regulatory program that is comparable in effectiveness to that of the United States, taking into account different conditions. The Secretary of Commerce shall consider any relevant information received during consultations when making its formal certification determination.

\* \* \* \* \*

7. Newly redesignated § 300.205 is revised to read as follows:

**§ 300.205 Effect of certification.**

(a) If a nation identified under § 300.202(a), § 300.203(a), or § 300.204(a) does not receive a positive certification under this subpart (i.e., the nation receives a negative certification or no certification is made), the fishing vessels of such nation are, to the extent consistent with international law, subject to the denial of entry by the Secretary of the Treasury into any place in the United States and to the navigable waters of the United States.

(b) Upon notification and any recommendations by the Secretary of Commerce to the President that an identified nation has failed to receive a positive certification, the President is authorized to direct the Secretary of the Treasury to prohibit the importation of certain fish and fish products from such nation (see § 300.206).

(c) Any action recommended under paragraph (b) shall be consistent with international obligations, including the WTO Agreement.

(d) If certain fish and fish products are prohibited from entering the United States, within six months after the imposition of the prohibition, the Secretary of Commerce shall determine whether the prohibition is insufficient to cause that nation to effectively

address the IUU fishing, bycatch, or shark catch described in the biennial report, or that nation has retaliated against the United States as a result of that prohibition. The Secretary of Commerce shall certify to the President each affirmative determination that an import prohibition is insufficient to cause a nation to effectively address such IUU fishing activity, bycatch, or shark catch or that a nation has taken retaliatory action against the United States. This certification is deemed to be a certification under section 1978(a) of Title 22, which provides that the President may direct the Secretary of the Treasury to prohibit the bringing or the importation into the United States of any products from the offending country for any duration as the President determines appropriate and to the extent that such prohibition is sanctioned by the World Trade Organization.

(e) *Duration of certification.* Any nation identified in the biennial report to Congress for having vessels engaged in IUU fishing that is negatively certified will remain negatively certified until the Secretary of Commerce determines that the nation has taken appropriate corrective action to address the IUU fishing activities for which it was identified in the biennial report. Any nation identified in the biennial report to Congress for having vessels engaged in PLMR bycatch or catch of sharks that is negatively certified will remain negatively certified until the Secretary of Commerce determines that the nation has taken the necessary actions pursuant to the Moratorium Protection Act to receive a positive certification.

(f) *Consultations.* NMFS will, working through or in consultation with the Department of State, continue consultations with nations that do not receive a positive certification with respect to the fishing activities described in the biennial report to Congress. The Secretary of Commerce shall take the results of such consultations into consideration when making a subsequent certification determination for each such nation.

8. Redesignate § 300.205 as § 300.206, and in newly redesignated § 300.206, revise paragraphs (a) and (b)(4) to read as follows:

**§ 300.206 Denial of port privileges and import restrictions on fish or fish products.**

(a) \* \* \*

(1) Vessels from a nation identified in the biennial report under § 300.202(a), § 300.203(a), or § 300.204(a) and not positively certified by the Secretary of Commerce that enter any place in the

United States or the navigable waters of the United States remain subject to inspection and may be prohibited from landing, processing, or transshipping fish and fish products, under applicable law. Services, including the refueling and re-supplying of such fishing vessels, may be prohibited, with the exception of services essential to the safety, health, and welfare of the crew. Fishing vessels will not be denied port access or services in cases of force majeure or distress.

(2) For nations identified in the previous biennial report under § 300.202(a) that are not positively certified in the current biennial report, the Secretary of Commerce shall so notify and make recommendations to the President, who is authorized to direct the Secretary of the Treasury to impose import prohibitions with respect to fish and fish products from those nations. Such a recommendation would address the relevant fishing activities or practices for which such nations were identified in the biennial report. Such import prohibitions, if implemented, would apply to fish and fish products managed under an applicable international fishery agreement. If there is no applicable international fishery agreement, such prohibitions, if implemented, would only apply to fish and fish products caught by vessels engaged in illegal, unreported, or unregulated fishing. For nations identified under § 300.203(a) or § 300.204(a) that are not positively certified, the Secretary of Commerce shall so notify and make recommendations to the President, who is authorized to direct the Secretary of the Treasury to impose import prohibitions with respect to fish and fish products from those nations; such prohibitions would only apply to fish and fish products caught by the vessels engaged in the relevant activity for which the nation was identified.

(3) Any action recommended under paragraph (a)(2) shall be consistent with international obligations, including the WTO Agreement.

(b) \* \* \*

(4) *Removal of negative certifications and import restrictions.* Upon a determination by the Secretary of Commerce that an identified nation that was not certified positively has satisfactorily met the conditions in this subpart and that nation has been positively certified, the provisions of § 300.206 shall no longer apply. The Secretary of Commerce, with the concurrence of the Secretary of State and in cooperation with the Secretary of the Treasury, will notify such nations and will file with the Office of the



Federal Register for publication notification of the removal of the import restrictions effective on the date of publication.

9. Redesignate § 300.206 as § 300.207, and in newly redesignated § 300.207, revise the section heading, and paragraph (c), and add paragraph (d) to read as follows:

**§ 300.207 Alternative procedures for nations identified as having vessels engaged in IUU fishing activities that are not certified under § 300.202**

\* \* \* \* \*

(c) Fish and fish products offered for entry under this section must be accompanied by a completed documentation of admissibility available from NMFS. The documentation of admissibility must be executed by a duly authorized official of the identified nation and must be validated by a responsible official(s) designated by NMFS. The documentation must be executed and submitted in a format (electronic facsimile (fax), the Internet, etc.) specified by NMFS.

(d) Any action recommended under this section shall be consistent with international obligations, including the WTO Agreement.

10. Redesignate § 300.207 as § 300.208, and in newly redesignated § 300.208, revise the section heading and add paragraph (d) to read as follows:

**§ 300.208 Alternative procedures for nations identified as having vessels engaged in bycatch of PLMRs that are not certified under § 300.203.**

(d) Any action recommended under this section shall be consistent with international obligations, including the WTO Agreement.

11. Add new § 300.209 to read as follows:

**§ 300.209 Alternative procedures for nations identified as having vessels engaged in shark catch that are not certified under § 300.204.**

(a) These certification procedures may be applied to fish and fish products from a vessel of a harvesting nation that has been identified under § 300.204 in the event that the Secretary cannot reach a certification determination for that nation by the time of the next biennial report. These procedures shall not apply to fish and fish products from identified nations that have received either a negative or a positive certification under this subpart.

(b) Consistent with paragraph (a) of this section, the Secretary of Commerce may allow entry of fish and fish products on a shipment-by-shipment,

shipper-by-shipper, or other basis if the Secretary determines that imports were harvested by fishing activities or practices that do not target or incidentally catch sharks, or were harvested by practices that—

(1) Are comparable to those of the United States, taking into account different conditions; and

(2) Include the gathering of species specific shark data that can be used to support international and regional assessments and conservation efforts for sharks.

(c) Fish and fish products offered for entry under this section must be accompanied by a completed documentation of admissibility available from NMFS. The documentation of admissibility must be executed by a duly authorized official of the identified nation and validated by a responsible official(s) designated by NMFS. The documentation must be executed and submitted in a format (electronic facsimile (fax), the Internet, etc.) specified by NMFS.

(d) Any action recommended under this section shall be consistent with international obligations, including the WTO Agreement.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

RIN 0648-BB72

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 34

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 34 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) for review, approval, and implementation by NMFS. Amendment 34 proposes to modify the income qualification requirements for the renewal of Gulf of Mexico (Gulf) commercial reef fish permits and revise the crew size regulations for dual-permitted vessels (i.e. vessels that possess both a charter vessel/headboat

permit for Gulf reef fish and a commercial vessel permit for Gulf reef fish) while fishing commercially. The intent of Amendment 34 is to remove permit requirements that may no longer be applicable to current commercial fishing practices and to improve vessel safety in the Gulf reef fish fishery.

**DATES:** Written comments must be received on or before September 10, 2012.

**ADDRESSES:** You may submit comments on the amendment identified by “NOAA-NMFS-2011-0025” by any of the following methods:

- **Electronic submissions:** Submit electronic comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Mail:** Steve Branstetter, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701. Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter “NOAA-NMFS-2011-0025” in the search field and click on “search”. After you locate the proposed rule, click the “Submit a Comment” link in that row. This will display the comment Web form. You can enter your submitter information (unless you prefer to remain anonymous), and type your comment on the Web form. You can also attach additional files (up to 10 MB) in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be considered.

For further assistance with submitting a comment, see the “Commenting” section at <http://www.regulations.gov/#/faqs> or the Help section at <http://www.regulations.gov>.

Electronic copies of Amendment 34, which includes an environmental assessment and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov/sf/GrouperSnapperandReefFish.htm>.

**FOR FURTHER INFORMATION CONTACT:** Steve Branstetter, Southeast Regional Office, NMFS, telephone 727-824-5305; email: [Steve.Branstetter@noaa.gov](mailto:Steve.Branstetter@noaa.gov).



## NOTIFICATION TO THE PARTIES

No. 2012/044

Geneva, 27 June 2012

CONCERNING:

Inclusion of species in Appendix III  
and corrections to the Appendices

1. In accordance with the provisions of Article XVI, paragraph 1, of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Governments of the following States have requested the Secretariat to include in Appendix III the species indicated below:

Belgium, Cyprus, Denmark<sup>2</sup>, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Malta, Netherlands, Poland, Portugal, Slovenia, Spain, Sweden and United Kingdom of Great Britain and Northern Ireland

**FAUNA**

ELASMOBRANCHII

LAMNIFORMES

LAMNIDAE

*Lamna nasus*

Costa Rica

**FAUNA**

ELASMOBRANCHII

CARCHARHINIFORMES

SPHYRNIDAE

*Sphyrna lewini*

2. In accordance with the provisions of Article XVI, paragraph 2, of the Convention, inclusion of these species in Appendix III shall take effect 90 days after the date of this Notification, i.e. on 25 September 2012.
3. When revising the CITES Appendices to include the species listed above, the Secretariat will take the opportunity to make the following further amendments.
  - a) For reasons explained in Notification to the Parties No. 2012/043 of 25 June 2012, a footnote will be added to the listing of the species *Scleropages formosus* in Appendix I, to indicate that this includes the newly described taxon *Scleropages inscriptus*;
  - b) At the request of the Government of Madagascar, the species *Diospyros crassiflorides* was included in CITES Appendix III on 22 December 2011. The listing in the Appendices is presented as follows, the name in parentheses being provided as a synonym for information purposes:

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\* Excluding the dependent territory of Greenland.

*Diospyros crassiflorides* (*Diospyros crassiflora*).

However, the use of this name has created some confusion. Following consultation with the nomenclature specialist of the Plants Committee, it has been clarified that the correct name for the species that Madagascar wished to include in Appendix III is the following:

*Diospyros mcphersonii* G.E. Schatz & Lowry (*Diospyros crassiflora* H. Perrier)

The Government of Madagascar has confirmed that it agrees to this amendment; and

- c) A correction will be made to the translations in French and Spanish of the annotation to *Crocodylus niloticus*, to clarify that the text "(subject to an annual export quota of no more than 1,600 wild specimens including hunting trophies, in addition to ranched specimens)" applies to the population of the United Republic of Tanzania only. This correction does not affect the English.
4. The revised edition of the CITES Appendices will be placed on the CITES website before it enters into effect.

State	Bill	Problem Statement/Synopsis	Bill Location	Bill Status
New York	S. 6431/A. 7707	Sharks occupy the top of the marine food chain and are a critical part of the ocean ecosystem. Yet they are particularly susceptible to decline due to over-fishing because they are slow to reach reproductive maturity and birth small litters, and hence cannot rebuild their populations quickly once over-fishing occurs. Their decline modifies the balance of species in the marine ecosystem and negatively affects other fisheries: creating a serious threat to the biodiversities of the oceans. Data from federal and international agencies show a decline in shark populations worldwide. The barbaric practice of shark finning, whereby a shark is caught, its fins cut off and the carcass dumped back into the water, causes tens of millions of sharks to die each year. Finned sharks starve to death, may be slowly eaten by other fish or drown because most sharks must keep moving in order to force water through their gills for oxygen.	<a href="http://open.nysenate.gov/legislation/bill/S6431A-2011">http://open.nysenate.gov/legislation/bill/S6431A-2011</a>	Bill introduced and referred to Environmental Conservation Committee
New Jersey	S1764	The Legislature finds and declares that sharks are apex predators in the marine food chain, and play an important role in the ocean's ecosystem; that the characteristics of sharks make them more vulnerable to overfishing than most fish, and that state, federal, and international agency data shows a decline in shark populations both at the local level and worldwide; that, unlike other fish species, most sharks do not reach sexual maturity until seven to 12 years of age, and then only give birth to a small litter of young, making it difficult to quickly rebuild their populations once they are overfished; that the practice of shark finning – where a shark is caught, the fins cut off, and the shark returned to the water – causes tens of millions of sharks to die a slow and painful death each year; that a shark immobilized by finning practices will slowly starve to death, due to its inability to swim and seek out or capture prey, or will drown, due to its inability to obtain oxygen through the movement of water over its gills, or will be eaten alive by other fish; that shark fins are the principle ingredient in shark fin soup – a delicacy in some cultures – and the demand for this delicacy has skyrocketed in recent years; that commercial fishermen, despite the enactment of federal, and several state, prohibitions on the practice of shark finning, continue to engage in shark finning on a massive scale; that, since 1972 – for various reasons, including finning – the number of blacktip sharks has fallen by ninety-three percent, tiger sharks by ninety-seven percent, and bull sharks, dusky sharks, and smooth hammerheads by ninety-nine percent – a rapid and significant reduction in the shark population that is disrupting the ocean's equilibrium; and that by eliminating the commercial market for shark fins in New Jersey, the State can help ensure that sharks will not become extinct. The Legislature therefore declares that it is reasonable and necessary, and in the best interests of the State's and the world's marine environment, to curtail the cruel and inhumane practice of shark finning, and to thereby prevent the ultimate extinction of the shark population, by prohibiting the possession, sale, trade, or distribution of shark fins in the State.	<a href="http://www.njleg.state.nj.us/2012/Bills/S2000/1764_11.PDF">http://www.njleg.state.nj.us/2012/Bills/S2000/1764_11.PDF</a>	3/8/2012 Introduced in the Senate, Referred to Senate Economic Growth Committee. (Identical Bill# A2719 Prohibits possession and sale of shark fins) 3/12/2012 Introduced, Referred to Assembly Agriculture and Natural Resources Committee
Delaware	H.B. 324	This bill forbids the possession, sale, offer for sale, and distribution of shark fins in the State of Delaware. While shark finning (whereby a shark is caught, its fins cut off and the carcass dumped back in the water) is already prohibited by federal law and Delaware regulations, the possession, sale or distribution of shark fins is not. By prohibiting trade in shark fins, Delaware can help to reduce the supply and demand, and hence contribute to ending this barbaric practice throughout the region and the world.	<a href="http://legis.delaware.gov/LIS/lis146.nsf/vwLegislation/HB+324/\$file/legis.html?open">http://legis.delaware.gov/LIS/lis146.nsf/vwLegislation/HB+324/\$file/legis.html?open</a>	HB 324 passed House chamber but died in Senate Committee
Maryland	S.B. 465	Prohibiting a person from possessing, selling, offering for sale, trading, or distributing a fin or tail of a shark or other elasmobranch; exempting a specified person from the prohibition against possessing a shark fin under specified circumstances; authorizing a person to use a ray or skate as bait under specified circumstances; requiring the Department of Natural Resources to adopt regulations to implement the Act; and defining "shark fin".	<a href="http://mlis.state.md.us/2012rs/bills/sb/sb0465t.pdf">http://mlis.state.md.us/2012rs/bills/sb/sb0465t.pdf</a>	S.B. 465 (3/22/12) Third Reading Passed (42-4)
	H.B. 393	For the purpose of prohibiting a person from possessing, selling, offering for sale, trading, or distributing a shark or other elasmobranch fin; establishing certain civil penalties for violations of this Act; requiring the Department of Natural Resources to adopt regulations to implement this Act; defining a certain term; and generally relating to a prohibition against the possession or distribution of a shark or other elasmobranch fin.	<a href="http://mlis.state.md.us/2012rs/bills/hb/hb0393f.pdf">http://mlis.state.md.us/2012rs/bills/hb/hb0393f.pdf</a>	H.B. 393 No Action
Virginia	H.B. 1159	Bans the possession, sale, offering for sale, trading, or distribution of shark fins, with certain exceptions for licensees and restaurants.	<a href="http://lis.virginia.gov/cgi-bin/legp604.exe?121+ful+HB1159+pdf">http://lis.virginia.gov/cgi-bin/legp604.exe?121+ful+HB1159+pdf</a>	HB 1159 01/16/12 House: Presented and ordered printed, 01/16/12 Referred to Committee on Agriculture, Chesapeake and Natural Resources,01/23/12 Assigned to Chesapeake subcommittee, 01/26/12 Subcommittee recommends laying on the table by voice vote,02/14/12 Left in Agriculture, Chesapeake and Natural Resources
Florida	S.B. 1002	WHEREAS, sharks are one of the top predators in the marine food chain and play an important role in our ocean's ecosystem, and WHEREAS, sharks have characteristics that make them more vulnerable to overfishing than most fish, and data from state, federal, and international agencies show a decline in the shark populations both locally and worldwide, and WHEREAS, unlike other fish species, most sharks do not reach sexual maturity until 7 to 12 years of age and then give birth to only a small litter of young; thus, sharks cannot rebuild their populations quickly once overfished, and WHEREAS, the practice of shark finning, whereby a shark is caught, the fin is cut off, and the shark is returned to the water, causes millions of sharks to die a slow death each year by starvation, predation, and drowning because sharks need to keep moving in order to force water through their gills for oxygen, and WHEREAS, shark fin is the principal ingredient in certain delicacies for which demand has risen, and WHEREAS, fishers continue the practice of shark finning on a massive scale despite state and federal laws to ban the practice, and WHEREAS, the state's waters will suffer harm if the practice of shark finning continues.	<a href="http://www.flsenate.gov/Session/Bill/2012/1002/BillText/Filed/PDF">http://www.flsenate.gov/Session/Bill/2012/1002/BillText/Filed/PDF</a>	Bill was pulled by the author