



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

**[Docket No. 170605543-7737-01]**

**RIN 0648-XF486**

**Atlantic Highly Migratory Species; 2018 Atlantic Shark Commercial Fishing Season**

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

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

**SUMMARY:** This proposed rule would establish quotas, opening dates, and retention limits for the 2018 fishing season for the Atlantic commercial shark fisheries. Quotas would be adjusted as required or allowable based on any over- and/or underharvests experienced during 2017 and previous fishing seasons. In addition, NMFS proposes season opening dates and commercial retention limits based on adaptive management measures to provide, to the extent practicable, fishing opportunities for commercial shark fishermen in all regions and areas. The proposed measures could affect fishing opportunities for commercial shark fishermen in the northwestern Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea.

**DATES:** Written comments must be received by [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2017-0069, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2017-0069](http://www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2017-0069), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Margo Schulze-Haugen, NMFS/SF1, 1315 East-West Highway, National Marine Fisheries Service, SSMC3, Silver Spring, MD 20910.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of this proposed rule and supporting documents are available from the HMS Management Division website at [www.nmfs.noaa.gov/sfa/hms/](http://www.nmfs.noaa.gov/sfa/hms/) or by contacting Guý DuBeck by phone at 301-427-8503.

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

## **SUPPLEMENTARY INFORMATION:**

### **Background**

The Atlantic commercial shark fisheries are managed under the authority of the

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

#### *2018 Proposed Quotas*

This proposed rule would adjust the quota levels for the different shark stocks and management groups for the 2018 Atlantic commercial shark fishing season based on over- and underharvests that occurred during 2017 and previous fishing seasons, consistent with existing regulations at 50 CFR 635.27(b). Over- and underharvests are accounted for in the same region, sub-region, and/or fishery in which they occurred the following year, except that large overharvests may be spread over a number of subsequent fishing years up to a maximum of 5 years. Shark stocks or management groups that contain one or more stocks that are overfished, have overfishing occurring, or have an unknown status, will not have underharvest carried over in the following year. Stocks that are not overfished and have no overfishing occurring may have any underharvest carried over in the following year, up to 50 percent of the base quota.

The quotas in this proposed rule are based on dealer reports received as of July 14, 2017.

In the final rule, NMFS will adjust the quotas as needed based on dealer reports received as of a date in mid-October 2017. Thus, all of the 2018 proposed quotas for the respective stocks and management groups will be subject to further adjustment after NMFS considers the dealer reports through mid-October. All dealer reports that are received after the October date will be used to adjust the 2019 quotas, as appropriate.

For the sandbar shark, aggregated large coastal share (LCS), hammerhead shark, non-blacknose small coastal share (SCS), blacknose shark, blue shark, porbeagle shark, and pelagic shark (other than porbeagle or blue sharks) management groups, the 2017 underharvests cannot be carried over to the 2018 fishing season because those stocks or management groups have been determined to be overfished, overfished with overfishing occurring, or have an unknown status. Thus, for all of these management groups, the 2018 proposed quotas would be equal to the applicable base quota minus any overharvests that occurred in 2017 and/or previous fishing seasons, as applicable.

Because the Gulf of Mexico blacktip shark management group and smoothhound shark management groups in the Gulf of Mexico and Atlantic regions have been determined not to be overfished and to have no overfishing occurring, available underharvest (up to 50 percent of the base quota) from the 2017 fishing season for these management groups may be applied to the respective 2018 quotas, and NMFS proposes to do so.

The proposed 2018 quotas by species and management group are summarized in Table 1; the description of the calculations for each stock and management group can be found below.

**Table 1. 2018 Proposed Quotas and Opening Dates for the Atlantic Shark Management Groups. All quotas and landings are dressed weight (dw), in metric tons (mt), unless specified otherwise. Table includes landings data as of July 14, 2017; final quotas are subject to change based on landings as of October 2017. 1 mt = 2,204.6 lb.**

Region or Sub-region	Management Group	2017 Annual Quota (A)	Preliminary 2017 Landings <sup>1</sup> (B)	Adjustments <sup>2</sup> (C)	2018 Base Annual Quota (D)	2018 Proposed Annual Quota (D+C)	Season Opening Dates
Western Gulf of Mexico	Blacktip Sharks	331.6 mt dw (730,425 lb dw)	206.6 mt dw (455,535 lb dw)	115.7 mt dw (255,131 lb dw) <sup>3</sup>	231.5 mt dw (510,261 lb dw)	347.2 mt dw (765,392 lb dw)	January 1, 2018
	Aggregated Large Coastal Sharks	72.0 mt dw (158,724 lb dw)	65.8 mt dw (145,098 lb dw)	-	72.0 mt dw (158,724 lb dw)	72.0 mt dw (158,724 lb dw)	
	Hammerhead Sharks	11.9 mt dw (26,301 lb dw)	2.5 mt dw (5,490 lb dw)	-	11.9 mt dw (26,301 lb dw)	11.9 mt dw (26,301 lb dw)	
Eastern Gulf of Mexico	Blacktip Sharks	36.0 mt dw (79,359 lb dw)	15.3 mt dw (33,788 lb dw)	12.6 mt dw (27,719 lb dw) <sup>3</sup>	25.1 mt dw (55,439 lb dw)	37.7 mt dw (83,158 lb dw)	
	Aggregated Large Coastal Sharks	85.5 mt dw (188,593 lb dw)	42.0 mt dw (92,617 lb dw)	-	85.5 mt dw (188,593 lb dw)	85.5 mt dw (188,593 lb dw)	
	Hammerhead Sharks	13.4 mt dw (29,421 lb dw)	6.4 mt dw (14,151 lb dw)	-	13.4 mt dw (29,421 lb dw)	13.4 mt dw (29,421 lb dw)	
Gulf of Mexico	Non-Blacknose Small Coastal Sharks	112.6 mt dw (248,215 lb dw)	36.2 mt dw (79,779 lb dw)	-	112.6 mt dw (248,215 lb dw)	112.6 mt dw (248,215 lb dw)	
	Smoothhound Sharks	504.6 mt dw (1,112,441 lb dw)	0 mt dw (0 lb dw)	168.2 mt dw (370,814 lb dw)	336.4 mt dw (741,627)	504.6 mt dw (1,112,441 lb dw)	
Atlantic	Aggregated Large Coastal Sharks	168.9 mt dw (372,552 lb dw)	55.2 mt dw (121,791 lb dw)	-	168.9 mt dw (372,552 lb dw)	168.9 mt dw (372,552 lb dw)	

	Hammerhead Sharks	27.1 mt dw (59,736 lb dw)	5.0 mt dw (10,973 lb dw)	-	27.1 mt dw (59,736 lb dw)	27.1 mt dw (59,736 lb dw)	
	Non-Blacknose Small Coastal Sharks	264.1 mt dw (582,333 lb dw)	60.9 mt dw (134,202 lb dw)	-	264.1 mt dw (582,333 lb dw)	264.1 mt dw (582,333 lb dw)	
	Blacknose Sharks (South of 34° N. lat. only)	17.2 mt dw (37,921 lb dw)	5.2 mt dw (11,373 lb dw)	-	17.2 mt dw (37,921 lb dw)	17.2 mt dw (37,921 lb dw)	
	Smoothhound Sharks	1,802.6 mt dw (3,973,902 lb dw)	166.9 mt dw (367,933 lb dw)	600.9 mt dw (1,324,634 lb dw)	1,201.7 mt dw (2,649,268 lb dw)	1,802.6 mt dw (3,973,902 lb dw)	
No regional quotas	Non-Sandbar LCS Research	50.0 mt dw (110,230 lb dw)	10.1 mt dw (22,157 lb dw)	-	50.0 mt dw (110,230 lb dw)	50.0 mt dw (110,230 lb dw)	January 1, 2018
	Sandbar Shark Research	90.7 mt dw (199,943 lb dw)	38.4 mt dw (84,619 lb dw)	-	90.7 mt dw (199,943 lb dw)	90.7 mt dw (199,943 lb dw)	
	Blue Sharks	273.0 mt dw (601,856 lb dw)	< 2.3 mt dw (< 5,000 lb dw)	-	273.0 mt dw (601,856 lb dw)	273.0 mt dw (601,856 lb dw)	
	Porbeagle Sharks	1.7 mt dw (3,748 lb dw)	0 mt dw (0 lb dw)	-	1.7 mt dw (3,748 lb dw)	1.7 mt dw (3,748 lb dw)	
	Pelagic Sharks Other Than Porbeagle or Blue	488.0 mt dw (1,075,856 lb dw)	64.9 mt dw (143,137 lb dw)	-	488.0 mt dw (1,075,856 lb dw)	488.0 mt dw (1,075,856 lb dw)	

<sup>1</sup> Landings are from January 1, 2017, through July 14, 2017, and are subject to change.

<sup>2</sup> Underharvest adjustments can only be applied to stocks or management groups that are not overfished and have no overfishing occurring. Also, the underharvest adjustments cannot exceed 50 percent of the base quota.

<sup>3</sup> This adjustment accounts for underharvest in 2017. This proposed rule would increase the overall Gulf of Mexico blacktip shark quota by 128.3 mt dw (282,850 lb dw). Since any underharvest would be divided based on the sub-regional quota percentage split, the western Gulf of Mexico blacktip shark quota would be increased by 115.7 mt dw, or 90.2 percent of the underharvest, while the eastern Gulf of Mexico blacktip shark quota would be increased by 12.6 mt dw, or 9.8 percent of the underharvest.



### *1. Proposed 2018 Quotas for the Gulf of Mexico Region Shark Management Groups*

The 2018 proposed commercial quota for blacktip sharks in the western Gulf of Mexico sub-region is 347.2 mt dw (765,392 lb dw) and the eastern Gulf of Mexico sub-region is 37.7 mt dw (83,158 lb dw). As of July 14, 2017, preliminary reported landings for blacktip sharks in the western Gulf of Mexico sub-region were at 62 percent (206.6 mt dw) of their 2017 quota levels (331.6 mt dw), while the blacktip sharks in the eastern Gulf of Mexico sub-region were at 43 percent (15.3 mt dw) of their 2017 quota levels (36.0 mt dw). Reported landings have not exceeded the 2017 quota to date, and the western Gulf of Mexico sub-region fishery was closed on May 2, 2017 (82 FR 20447). Gulf of Mexico blacktip sharks have not been declared to be overfished, to have overfishing occurring, or to have an unknown status. Pursuant to § 635.27(b)(2)(ii), underharvests for blacktip sharks within the Gulf of Mexico region therefore could be applied to the 2018 quotas up to 50 percent of the base quota. Any underharvest would be split based on the sub-regional quota percentages of 90.2 percent for western Gulf of Mexico blacktip sharks and 9.8 percent for eastern Gulf of Mexico blacktip sharks (§ 635.27(b)(1)(ii)). To date, the overall Gulf of Mexico blacktip shark management group was underharvested by 148.0 mt dw (325,665 lb dw); however, NMFS can only apply up to 50 percent of the base quota or 128.3 mt dw (282,850 lb dw). Accordingly, NMFS proposes to increase the 2018 western Gulf of Mexico blacktip shark quota by 115.7 mt dw (128.3 mt dw underharvest in 2017 \* 90.2 percent = 115.7 mt dw western sub-region underharvest) and increase the 2018 eastern Gulf of Mexico blacktip shark quota by 12.6 mt dw (128.3 mt dw underharvest in 2017 \* 9.8 percent = 12.6 mt dw eastern sub-region underharvest). Thus, the proposed western sub-regional Gulf of Mexico blacktip shark commercial quota is 347.2 mt dw and the proposed eastern sub-regional

Gulf of Mexico blacktip shark commercial quota is 37.7 mt dw.

The 2018 proposed commercial quota for aggregated LCS in the western Gulf of Mexico sub-region is 72.0 mt dw (158,724 lb dw) and the eastern Gulf of Mexico sub-region is 85.5 mt dw (188,593 lb dw). As of July 14, 2017, preliminary reported landings for aggregated LCS in the western Gulf of Mexico sub-region were at 91 percent (65.8 mt dw) of their 2017 quota levels (72.0 mt dw), while the aggregated LCS in the eastern Gulf of Mexico sub-region were at 49 percent (42.0 mt dw) of their 2017 quota levels (85.5 mt dw). Reported landings have not exceeded the 2017 quota to date, and the western aggregated LCS sub-region fishery was closed on May 2, 2017 (82 FR 20447). Given the unknown status of some of the shark species within the Gulf of Mexico aggregated LCS management group, underharvests cannot be carried over pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2018 quotas for aggregated LCS in the western Gulf of Mexico and eastern Gulf of Mexico sub-regions be equal to their annual base quotas without adjustment, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

In the Gulf of Mexico, hammerhead shark quotas are divided into two sub-regions: western and eastern. The 2018 proposed commercial quotas for hammerhead sharks in the western Gulf of Mexico sub-region and eastern Gulf of Mexico sub-region are 11.9 mt dw (23,301 lb dw) and 13.4 mt dw (29,421 lb dw), respectively. As of July 14, 2017, preliminary reported landings for hammerhead sharks in the western Gulf of Mexico sub-region were at 24 percent (2.5 mt dw) of their 2017 quota levels (11.9 mt dw), while landings of hammerhead sharks in the eastern Gulf of Mexico sub-region were at 48 percent (6.4 mt dw) of their 2017 quota levels (13.4 mt dw).

Reported landings have not exceeded the 2017 quota to date, and the western hammerhead shark sub-region fishery was closed on May 2, 2017 (82 FR 20447). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), at this time, NMFS proposes that the 2018 quotas for hammerhead sharks in the western Gulf of Mexico and eastern Gulf of Mexico sub-regions be equal to their annual base quotas without adjustment, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

The 2018 proposed commercial quota for non-blacknose SCS in the Gulf of Mexico region is 112.6 mt dw (248,215 lb dw). As of July 14, 2017, preliminary reported landings of non-blacknose SCS were at 32 percent (36.2 mt dw) of their 2017 quota level (112.6 mt dw) in the Gulf of Mexico region. Reported landings have not exceeded the 2017 quota to date. Given the unknown status of bonnethead sharks within the Gulf of Mexico non-blacknose SCS management group, underharvests cannot be carried forward pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2018 quota for non-blacknose SCS in the Gulf of Mexico region be equal to the annual base quota without adjustment, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

The 2018 proposed commercial quota for smoothhound sharks in the Gulf of Mexico region is 504.6 mt dw (1,112,441 lb dw). As of July 14, 2017, there are no preliminary reported landings of smoothhound sharks in the Gulf of Mexico region. Gulf of Mexico smoothhound sharks have not been declared to be overfished, to have overfishing occurring, or to have an unknown status. Pursuant to § 635.27(b)(2)(ii), underharvests for smoothhound sharks within the Gulf of Mexico region therefore could be applied to the 2018 quotas up to 50 percent of the

base quota. Accordingly, NMFS proposes to increase the 2018 Gulf of Mexico smoothhound shark quota to adjust for anticipated underharvests in 2017 as allowed. The proposed 2018 adjusted base annual quota for Gulf of Mexico smoothhound sharks is 504.6 mt dw (1,112,441 lb dw) (336.4 mt dw annual base quota + 168.2 mt dw 2017 underharvest = 504.6 mt dw 2018 adjusted annual quota).

## *2. Proposed 2018 Quotas for the Atlantic Region Shark Management Groups*

The 2018 proposed commercial quota for aggregated LCS in the Atlantic region is 168.9 mt dw (372,552 lb dw). As of July 14, 2017, the aggregated LCS fishery in the Atlantic region is still open and preliminary landings indicate that only 33 percent of the quota, or 55.2 mt dw (121,791 lb dw), has been harvested. Given the unknown status of some of the shark species within the Atlantic aggregated LCS management group, underharvests cannot be carried over pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with current regulations at § 635.27(b)(2), NMFS proposes that the 2018 quota for aggregated LCS in the Atlantic region be equal to the annual base quota without adjustment, because there have not been any overharvests and underharvests cannot be carried over due to stock status.

The 2018 proposed commercial quota for hammerhead sharks in the Atlantic region is 27.1 mt dw (59,736 lb dw). Currently, the hammerhead shark fishery in the Atlantic region is still open and preliminary landings as of July 14, 2017, indicate that only 18 percent of the quota, or 5.0 mt dw (10,973 lb dw), has been harvested. Given the overfished status of hammerhead sharks, underharvests cannot be carried forward pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2018 quota for hammerhead sharks in the Atlantic region be equal to the annual

base quota without adjustment, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

The 2018 proposed commercial quota for non-blacknose SCS in the Atlantic region is 264.1 mt dw (582,333 lb dw). As of July 14, 2017, preliminary reported landings of non-blacknose SCS were at 23 percent (60.9 mt dw) of their 2017 quota level (264.1 mt dw) in the Atlantic region. Reported landings have not exceeded the 2017 quota to date. Given the unknown status of bonnethead sharks within the Atlantic non-blacknose SCS management group, underharvests cannot be carried forward pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2018 quota for non-blacknose SCS in the Atlantic region be equal to the annual base quota without adjustment, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

The 2018 proposed commercial quota for blacknose sharks in the Atlantic region is 17.2 mt dw (37,921 lb dw). As of July 14, 2017, preliminary reported landings of blacknose sharks were at 30 percent (5.2 mt dw) of their 2017 quota levels (17.2 mt dw) in the Atlantic region. Reported landings have not exceeded the 2017 quota to date. Pursuant to § 635.27(b)(2), because blacknose sharks have been declared to be overfished with overfishing occurring in the Atlantic region, NMFS could not carry forward the remaining underharvest. Therefore, NMFS proposes that the 2018 Atlantic blacknose shark quota be equal to the annual base quota without adjustment. (Note: The blacknose shark quota is available in the Atlantic region only for those vessels operating south of 34° N. latitude; north of 34° N. latitude, retention, landing, and sale of blacknose sharks are prohibited.)

The 2018 proposed commercial quota for smoothhound sharks in the Atlantic region is 1,802.6 mt dw (3,973,902 lb dw). As of July 14, 2017, preliminary reported landings of smoothhound sharks were at 9 percent (166.9 mt dw) of their 2017 quota levels (1,802.6 mt dw) in the Atlantic region. Atlantic smoothhound sharks have not been declared to be overfished, to have overfishing occurring, or to have an unknown status. Pursuant to § 635.27(b)(2)(ii), underharvests for smoothhound sharks within the Atlantic region therefore could be applied to the 2018 quotas up to 50 percent of the base quota. Accordingly, NMFS proposes to increase the 2018 Atlantic smoothhound shark quota to adjust for anticipated underharvests in 2017 as allowed. The proposed 2018 adjusted base annual quota for Atlantic smoothhound sharks is 1,802.6 mt dw (1,323,862 lb dw) (1,201.7 mt dw annual base quota + 600.9 mt dw 2017 underharvest = 1,802.6 mt dw 2018 adjusted annual quota).

### *3. Proposed 2018 Quotas for Shark Management Groups with No Regional Quotas*

The 2018 proposed commercial quotas within the shark research fishery are 50.0 mt dw (110,230 lb dw) for research LCS and 90.7 mt dw (199,943 lb dw) for sandbar sharks. Within the shark research fishery, as of July 14, 2017, preliminary reported landings of research LCS were at 20 percent (10.1 mt dw) of their 2017 quota levels (50.0 mt dw), and sandbar shark reported landings were at 42 percent (38.4 mt dw) of their 2017 quota levels (27.1 mt dw). Reported landings have not exceeded the 2017 quotas to date. Under § 635.27(b)(2)(ii), because sandbar sharks and scalloped hammerhead sharks within the research LCS management group have been determined to be either overfished or overfished with overfishing occurring, underharvests for these management groups cannot be carried forward to the 2018 quotas. Therefore, based on preliminary estimates and consistent with the current regulations at §

635.27(b)(2), NMFS proposes that the 2018 quota in the shark research fishery be equal to the annual base quota without adjustment because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

The 2018 proposed commercial quotas for blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle or blue sharks) are 273 mt dw (601,856 lb dw), 1.7 mt dw (3,748 lb dw), and 488 mt dw (1,075,856 lb dw), respectively. As of July 14, 2017, there are no preliminary reported landings of porbeagle sharks. The preliminary reported landings of blue sharks were at less than 1 percent (less than 2.3 mt dw) of their 2017 quota level (273.0 mt dw), while preliminary reported landings of pelagic sharks (other than porbeagle and blue sharks) were at 13 percent (64.9 mt dw) of their 2017 quota level (488.0 mt dw). Given that these pelagic species are overfished, have overfishing occurring, or have an unknown status, underharvests cannot be carried forward pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2018 quotas for blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle and blue sharks) be equal to their annual base quotas without adjustment, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

*Proposed Opening Dates and Retention Limits for the 2018 Atlantic Commercial Shark Fishing Season*

For each fishery, NMFS considered the seven “Opening Commercial Fishing Season Criteria” listed at § 635.27(b)(3). The “Opening Fishing Season” criteria consider factors such as the available annual quotas for the current fishing season, estimated season length and average

weekly catch rates from previous years, length of the season and fishermen participation in past years, impacts to accomplishing objectives of the 2006 Consolidated HMS FMP and its amendments, temporal variation in behavior or biology target species (e.g., seasonal distribution or abundance), impact of catch rates in one region on another, and effects of delayed season openings.

Specifically, as described above and below, NMFS examined the 2017 and previous fishing years' over- and/or underharvests of the different management groups to determine the effects of the 2018 proposed commercial quotas on the shark stocks and fishermen across regional and sub-regional fishing areas. NMFS also examined the potential season length and previous catch rates to ensure, to the extent practicable, that equitable fishing opportunities be provided to fishermen in all areas. Lastly, NMFS examined the seasonal variation of the different species/management groups and the effects on fishing opportunities.

As described below, NMFS also considered the six "Inseason trip limit adjustment criteria" listed at § 635.24(a)(8) for directed shark limited access permit holders intending to land LCS other than sandbar sharks. Those criteria are: the amount of remaining shark quota in the relevant area or region, to date, based on dealer reports; the catch rates of the relevant shark species/complexes, to date, based on dealer reports; estimated date of fishery closure based on when the landings are projected to reach 80 percent of the quota given the realized catch rates; effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments; variations in seasonal distribution, abundance, or migratory patterns of the relevant shark species based on scientific and fishery-based knowledge; and/or effects of catch rates in one part of a region precluding vessels in another part of that region from having a

reasonable opportunity to harvest a portion of the relevant quota.

After considering these criteria, NMFS is proposing that the 2018 Atlantic commercial shark fishing season for all shark management groups in the northwestern Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, open on or about January 1, 2018, after the publication of the final rule for this action (Table 2). NMFS is also proposing to start the 2018 commercial shark fishing season with the commercial retention limit of 45 LCS other than sandbar sharks per vessel per trip in the western Gulf of Mexico sub-region, 50 LCS other than sandbar sharks per vessel per trip in the eastern Gulf of Mexico sub-region, and 25 LCS other than sandbar sharks per vessel per trip in the Atlantic region (Table 2). However, at the time of writing this proposed rule, some management groups remain open and, for those management groups that are already closed, landings are still being calculated and checked for quality control and assurance. Thus, NMFS may implement different opening dates and commercial retention limits in the final rule if there are underharvested quotas or quota exceedances in 2017 that are not accounted for in this proposed rule.

**Table 2. Quota Linkages, Season Opening Dates, and Commercial Retention Limit by Regional or Sub-Regional Shark Management Group.**

Region or Sub-region	Management Group	Quota Linkages	Season Opening Dates	Commercial Retention Limits for Directed Shark Limited Access Permit Holders (inseason adjustments are possible)
Western Gulf of Mexico	Blacktip Sharks	Not Linked	January 1, 2018	45 LCS other than sandbar sharks per vessel per trip
	Aggregated Large Coastal Sharks	Linked		
	Hammerhead Sharks			
Eastern Gulf of	Blacktip Sharks	Not Linked	January 1, 2018	50 LCS other than sandbar sharks per vessel per trip

Mexico	Aggregated Large Coastal Sharks	Linked		
	Hammerhead Sharks			
Gulf of Mexico	Non-Blacknose Small Coastal Sharks	Not Linked	January 1, 2018	N/A
	Smoothhound Sharks	Not Linked	January 1, 2018	N/A
Atlantic	Aggregated Large Coastal Sharks	Linked	January 1, 2018	25 LCS other than sandbar sharks per vessel per trip  If quota is landed quickly (e.g., if approximately 20 percent of quota is caught at the beginning of the year), NMFS anticipates an inseason reduction (e.g., to 3 or fewer LCS other than sandbar sharks per vessel per trip), then an inseason increase to 36 LCS other than sandbar sharks per vessel per trip around July 15, 2018
	Hammerhead Sharks			
	Non-Blacknose Small Coastal Sharks	Linked (South of 34° N. lat. only)	January 1, 2018	N/A
	Blacknose Sharks (South of 34° N. lat. only)			
	Smoothhound Sharks	Not Linked	January 1, 2018	N/A
No regional quotas	Non-Sandbar LCS Research	Linked	January 1, 2018	N/A
	Sandbar Shark Research			
	Blue Sharks	Not Linked	January 1, 2018	N/A
	Porbeagle Sharks			
	Pelagic Sharks Other Than Porbeagle or Blue			

In the Gulf of Mexico region, we are opening the fishing season on or about January 1,

2018, for the aggregated LCS, blacktip sharks, and hammerhead shark management groups with the commercial retention limits of 45 LCS other than sandbar sharks per vessel per trip for directed shark permit holders in the western sub-region—and 50 LCS other than sandbar sharks per vessel per trip for directed shark permit holders in the eastern sub-region. This would provide, to the extent practicable, equitable opportunities across the fisheries management sub-regions. This opening date takes into account all the season opening criteria listed in § 635.27(b)(3), and particularly the criteria that NMFS consider the length of the season for the different species and/or management group in the previous years (§ 635.27(b)(3)(ii) and (iii)) and whether fishermen were able to participate in the fishery in those years (§ 635.27(b)(3)(v)). The proposed commercial retention limits take into account the criteria listed in § 635.24(a)(8), and particularly the criterion that NMFS consider the catch rates of the relevant shark species/complexes based on dealer reports to date (§ 635.24(a)(8)(ii)). Similar to the retention limit adjustment process described for the Atlantic region, NMFS may consider adjusting the retention limit in the Gulf of Mexico region throughout the season to ensure fishermen in all parts of the region have an opportunity to harvest aggregated LCS, blacktip sharks, and hammerhead sharks (see the criteria listed at § 635.27(b)(3)(v) and § 635.24(a)(8)(ii), (v), and (vi)). In 2017, the management groups in the western Gulf of Mexico sub-region were closed on May 2, 2017 (82 FR 20447). As such, in 2018, NMFS is proposing the same commercial trip limit for these management groups that was set in 2017 in order to ensure the management group is open until at least April 2017, which is when the State of Louisiana closes state waters to shark fishing and when that State has previously asked that NMFS close Federal shark fisheries to match state regulations if quotas are limited (see the criteria listed at § 635.27(b)(3)(vii) and §

635.24(a)(8)(iii)). In the eastern Gulf of Mexico, NMFS is proposing a slightly higher trip limit in order to increase the harvest levels. Currently, the aggregated LCS, blacktip shark, and hammerhead shark management groups are still open in the eastern Gulf of Mexico sub-region (see the criteria listed at § 635.27(b)(3)(i) through (v), § 635.24(a)(8)(i) through (iii), and § 635.24(a)(8)(v) and (vi)). Fishermen fishing for these management groups in the eastern Gulf of Mexico did not fully land available quota in 2016 (fishing with the same retention limit as in 2017), and, if fishing rates remain similar to those in 2016, are not expected to fully land available quotas in 2017. Thus, NMFS believes that a small increase in retention limit in this sub-region could allow fishermen additional opportunities to fully land available quotas while not exceeding them. However, if catch rates increase and the eastern Gulf of Mexico sub-regional management groups close this year, NMFS could make changes to the 2018 opening dates and commercial retention limits if necessary to ensure equitable fishing opportunities.

In the Atlantic region, NMFS proposes opening the aggregated LCS and hammerhead shark management groups on or about January 1, 2018. This opening date is the same date that these management groups opened in 2017. As described below, this opening date also takes into account all the criteria listed in § 635.27(b)(3), and particularly the criterion that NMFS consider the effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the different species and/or management quotas (§ 635.27(b)(3)(v)). In 2017, the data indicate that an opening date of January 1 provided a reasonable opportunity for every part of each region to harvest a portion of the available quotas (§ 635.27(b)(3)(i)) while accounting for variations in seasonal distribution of the different species in the management groups (§ 635.27(b)(3)(iv)). When the aggregated LCS

quota was harvested too quickly to allow fishermen in the North Atlantic area an opportunity to fish, NMFS reduced the retention limit to three sharks per trip on April 13, 2017 (82 FR 17765). NMFS then increased the retention limit to 36 sharks per trip on July 16, 2017 (82 FR 32490), to allow for equitable fishing opportunities across the Atlantic region. Because the quotas in 2018 are proposed to be the same as the quotas in 2017, NMFS expects that the season lengths and therefore the participation of various fishermen throughout the region, would be similar in 2018 (§ 635.27(b)(3)(ii) and (iii)). Based on the recent performance of the fishery, the January 1 opening date appears to be meet the objectives of the 2006 Consolidated HMS FMP and its amendments (§ 635.27(b)(3)(vi)). Therefore, there is no information that indicates changing the opening date is necessary.

In addition, for the aggregated LCS and hammerhead shark management groups in the Atlantic region, NMFS is proposing that the commercial retention trip limit for directed shark limited access permit holders on the proposed opening date be 25 LCS other than sandbar sharks per vessel per trip. This retention limit should allow fishermen to harvest some of the 2018 quota at the beginning of the year when sharks are more prevalent in the South Atlantic area (see the criteria at § 635.24(a)(3)(i), (ii), (v), and (vi)). As was done in 2017, if it appears that the quota is being harvested too quickly (i.e., about 20 percent) to allow directed fishermen throughout the entire region an opportunity to fish and ensure enough quota remains until later in the year, NMFS would reduce the commercial retention limits to incidental levels (3 LCS other than sandbar sharks per vessel per trip) or another level calculated to reduce the harvest of LCS taking into account § 635.27(b)(3) and the inseason trip limit adjustment criteria listed in § 635.24(a)(8), particularly the consideration of whether catch rates in one part of a region or sub-

region are precluding vessels in another part of that region or sub-region from having a reasonable opportunity to harvest a portion of the relevant quota (§ 635.24(a)(8)(vi)). If the quota continues to be harvested quickly, NMFS could reduce the retention limit to 0 LCS other than sandbar sharks per vessel per trip to ensure enough quota remains until later in the year. If either situation occurs, NMFS would publish in the Federal Register notification of any inseason adjustments of the retention limit to an appropriate limit of sharks per trip. In 2017, NMFS reduced the retention limit to 3 LCS other than sandbar sharks on April 13, 2017 (82 FR 17765) when the aggregated LCS landings reached approximately 20 percent of the aggregated LCS quota, and did not need to reduce it further.

Also, as was done in 2017, NMFS will consider increasing the commercial retention limits per trip at a later date if necessary to provide fishermen in the northern portion of the Atlantic region an opportunity to retain aggregated LCS and hammerhead sharks after considering the appropriate inseason adjustment criteria. Similarly, at some point later in the year (e.g., July 15), potentially equivalent to how the 2017 fishing season operated, NMFS may consider increasing the retention limit to 36 LCS other than sandbar sharks per vessel per trip or another amount, as deemed appropriate, after considering the inseason trip limit adjustment criteria. If the quota is being harvested too quickly or too slowly, NMFS could adjust the retention limit appropriately to ensure the fishery remains open most of the rest of the year. Since the fishery is still open with majority of the quota available, NMFS will monitor the rest of the fishing season and could make changes to the proposed 2018 opening date if necessary to ensure equitable fishing opportunities.

All of the shark management groups would remain open until December 31, 2018, or

until NMFS determines that the fishing season landings for any shark management group have reached, or are projected to reach, 80 percent of the available quota. If NMFS determines that a non-linked shark species or management group must be closed, then, consistent with § 635.28(b)(2) for non-linked quotas (e.g., eastern Gulf of Mexico blacktip, western Gulf of Mexico blacktip, Gulf of Mexico non-blacknose SCS, pelagic sharks, or the Atlantic or Gulf of Mexico smoothhound sharks), NMFS will publish in the *Federal Register* a notice of closure for that shark species, shark management group, region, and/or sub-region that will be effective no fewer than 5 days from the date of filing. For the blacktip shark management group, regulations at § 635.28(b)(5)(i) through (v) authorize NMFS to close the management group before landings reach, or are expected to reach, 80 percent of the quota after considering the following criteria and other relevant factors: season length based on available sub-regional quota and average sub-regional catch rates; variability in regional and/or sub-regional seasonal distribution, abundance, and migratory patterns; effects on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments; amount of remaining shark quotas in the relevant sub-region; and regional and/or sub-regional catch rates of the relevant shark species or management groups. From the effective date and time of the closure until NMFS announces, via the publication of a notice in the *Federal Register*, that additional quota is available and the season is reopened, the fisheries for the shark species or management group are closed, even across fishing years.

If NMFS determines that a linked shark species or management group must be closed, then, consistent with § 635.28(b)(3) for linked quotas, NMFS will publish in the *Federal Register* a notice of closure for all of the species and/or management groups in a linked group that will be effective no fewer than 5 days from date of filing. From the effective date and time

of the closure until NMFS announces, via the publication of a notice in the *Federal Register*, that additional quota is available and the season is reopened, the fisheries for all linked species and/or management groups are closed, even across fishing years. The linked quotas of the species and/or management groups are Atlantic hammerhead sharks and Atlantic aggregated LCS; eastern Gulf of Mexico hammerhead sharks and eastern Gulf of Mexico aggregated LCS; western Gulf of Mexico hammerhead sharks and western Gulf of Mexico aggregated LCS; and Atlantic blacknose and Atlantic non-blacknose SCS south of 34° N. latitude. NMFS may close the fishery for the Gulf of Mexico blacktip shark before landings reach, or are expected to reach, 80 percent of the quota, after considering the criteria listed at § 635.28(b)(5).

### **Request for Comments**

Comments on this proposed rule may be submitted via *www.regulations.gov* or by mail. NMFS solicits comments on this proposed rule by [*insert date 30 days after date of publication in the FEDERAL REGISTER*] (see **DATES** and **ADDRESSES**).

### **Classification**

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

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

NMFS determined that the final rules to implement Amendment 2 to the 2006 Consolidated HMS FMP (June 24, 2008, 73 FR 35778; corrected on July 15, 2008, 73 FR 40658), Amendment 5a to the 2006 Consolidated HMS FMP (78 FR 40318; July 3, 2013), Amendment 6 to the 2006 Consolidated HMS FMP (80 FR 50073; August 18, 2015), and

Amendment 9 to the 2006 Consolidated HMS FMP (80 FR 73128; November 24, 2015) are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of coastal states on the Atlantic including the Gulf of Mexico and the Caribbean Sea as required under the Coastal Zone Management Act. Pursuant to 15 CFR 930.41(a), NMFS provided the Coastal Zone Management Program of each coastal state a 60-day period to review the consistency determination and to advise the Agency of their concurrence. NMFS received concurrence with the consistency determinations from several states and inferred consistency from those states that did not respond within the 60-day time period. This proposed action to establish opening dates and adjust quotas for the 2018 fishing season for the Atlantic commercial shark fisheries does not change the framework previously consulted upon; therefore, no additional consultation is required.

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

Section 603(b)(1) of the RFA requires agencies to explain the purpose of the rule. This rule, consistent with the Magnuson-Stevens Act and the 2006 Consolidated HMS FMP and its amendments, is being proposed to establish the 2018 commercial shark fishing quotas, retention limits, and fishing seasons. Without this rule, the commercial shark fisheries would close on December 31, 2017, and would not open until another action was taken. This proposed rule would be implemented according to the regulations implementing the 2006 Consolidated HMS FMP and its amendments. Thus, NMFS expects few, if any, economic impacts to fishermen other than those already analyzed in the 2006 Consolidated HMS FMP and its amendments,

based on the quota adjustments.

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

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

As of July 2017, the proposed rule would apply to the approximately 206 directed commercial shark permit holders, 244 incidental commercial shark permit holders, 142 smoothhound shark permit holders, and 112 commercial shark dealers. Not all permit holders are active in the fishery in any given year. Active directed commercial shark permit holders are defined as those with valid permits that landed one shark based on HMS electronic dealer reports. Of the 450 directed and incidental commercial shark permit holders, only 28 permit holders landed sharks in the Gulf of Mexico region and only 78 landed sharks in the Atlantic region. Of the 142 smoothhound shark permit holders, only 26 permit holders landed smoothhound sharks in the Atlantic region and none landed smoothhound sharks in the Gulf of Mexico region. NMFS has determined that the proposed rule would not likely affect any small governmental jurisdictions.

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

Section 603(c) of the RFA requires each IRFA to contain a description of any significant alternatives to the proposed rule which would accomplish the stated objectives of applicable

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

This rulemaking does not establish management measures to be implemented, but rather implements previously adopted and analyzed measures with adjustments, as specified in the 2006 Consolidated HMS FMP and its amendments and the Environmental Assessment (EA) that accompanied the 2011 shark quota specifications rule (75 FR 76302; December 8, 2010). Thus, NMFS proposes to adjust quotas established and analyzed in the 2006 Consolidated HMS FMP and its amendments by subtracting the underharvest or adding the overharvest as allowable. Thus, NMFS has limited flexibility to modify the quotas in this rule, the impacts of which were

analyzed in previous regulatory flexibility analyses.

Based on the 2016 ex-vessel price, fully harvesting the unadjusted 2018 Atlantic shark commercial baseline quotas could result in total fleet revenues of \$7,779,285 (see Table 3). For the Gulf of Mexico blacktip shark management group, NMFS is proposing to increase the baseline sub-regional quotas due to the underharvests in 2017. The increase for the western Gulf of Mexico blacktip shark management group could result in a \$218,647 gain in total revenues for fishermen in that sub-region, while the increase for the eastern Gulf of Mexico blacktip shark management group could result in a \$32,902 gain in total revenues for fishermen in that sub-region. For the Gulf of Mexico and Atlantic smoothhound shark management groups, NMFS is proposing to increase the baseline quotas due to the underharvest in 2017. This would cause a potential gain in revenue of \$581,718 for the fleet in the Gulf of Mexico region and a potential gain in revenue of \$1,083,926 for the fleet in the Atlantic region.

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

**Table 3. Average ex-Vessel Prices per lb dw for Each Shark Management Group, 2016.**

Region	Species	Average Ex-Vessel Meat Price	Average Ex-Vessel Fin Price
Western Gulf of	Blacktip Shark	\$0.56	\$11.00
	Aggregated LCS	\$0.52	\$11.06

Mexico	Hammerhead Shark	\$0.83	\$11.08
Eastern Gulf of Mexico	Blacktip Shark	\$0.89	\$10.67
	Aggregated LCS	\$0.56	\$11.23
Gulf of Mexico	Hammerhead Shark	\$0.25	\$15.95
	Non-Blacknose SCS	\$0.38	\$8.68
Atlantic	Smoothhound Shark	\$1.50	\$1.91
	Aggregated LCS	\$0.79	\$5.54
	Hammerhead Shark	\$0.38	\$5.73
	Non-Blacknose SCS	\$0.71	\$2.92
	Blacknose Shark	\$0.98	\$2.92
No Region	Smoothhound Shark	\$0.75	\$1.91
	Shark Research Fishery (Aggregated LCS)	\$0.70	\$9.47
	Shark Research Fishery (Sandbar only)	\$0.68	\$9.47
	Blue shark	\$0.75	\$3.58
	Porbeagle shark*	\$1.54	\$3.58
	Other Pelagic sharks	\$1.54	\$3.58

\*Used other pelagic shark ex-vessel prices for porbeagle sharks ex-vessel prices since there currently are no landings of porbeagle sharks.

For this rule, NMFS also reviewed the criteria at § 635.27(b)(3) to determine when opening each fishery would provide equitable opportunities for fishermen, to the extent practicable, while also considering the ecological needs of the different species. The opening dates of the fishing season(s) could vary depending upon the available annual quota, catch rates, and number of fishing participants during the year. For the 2018 fishing season, NMFS is proposing to open all of the shark management groups on the effective date of the final rule for this action (expected to be on or about January 1). The direct and indirect economic impacts

would be neutral on a short- and long-term basis because NMFS is not proposing to change the opening dates of these fisheries from the status quo.

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

Dated: August 15, 2017.

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[FR Doc. 2017-17575 Filed: 8/21/2017 8:45 am; Publication Date: 8/22/2017]