



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

RIN 0648-BM08

Atlantic Highly Migratory Species; Amendment 16 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan

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

ACTION: Notice of intent (NOI) to prepare an environmental impact statement (EIS); request for comments.

SUMMARY: NMFS announces the availability of the scoping document for Amendment 16 to the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP) (Amendment 16) and its intent to prepare an EIS under the National Environmental Policy Act (NEPA). Based on the mechanism used in establishing shark quotas and related management measures from Amendment 14 to the 2006 Consolidated HMS FMP (Amendment 14), Amendment 16 would modify the acceptable biological catch (ABC) and annual catch limits (ACLs) for Atlantic sharks and the process used to account for carryover of underharvests of quotas. In the scoping document, NMFS considers changes to commercial and recreational shark management measures related to commercial and recreational quotas, management groups, retention limits, and size limits. NMFS expects to consider the comments received on the scoping document when developing Amendment 16.

DATES: Written comments must be received by August 18, 2023. Three in-person scoping meetings and two virtual scoping meetings will be held from May through

August 2023. See **SUPPLEMENTARY INFORMATION** for all meeting dates and times.

ADDRESSES: Electronic copies of the final document for Amendment 14 to the 2006 Consolidated HMS FMP (<https://www.fisheries.noaa.gov/action/amendment-14-2006-consolidated-hms-fishery-management-plan-shark-quota-management>) and the scoping document for Amendment 16 to the 2006 Consolidated HMS FMP (<https://www.fisheries.noaa.gov/action/scoping-amendment-16-2006-consolidated-atlantic-highly-migratory-species-fishery-management>) may be obtained on the internet.

You may submit comments on this document, identified by NOAA-NMFS-2023-0010, via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov>, enter NOAA-NMFS-2023-0010 into the search box, click the “Comment” icon, complete the required fields, and enter or attach your comments.

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 <https://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).

Scoping meetings will be held virtually and in person. See **SUPPLEMENTARY INFORMATION** for more information on the locations.

FOR FURTHER INFORMATION CONTACT: Guy DuBeck

(Guy.DuBeck@noaa.gov), Karyl Brewster-Geisz (Karyl.Brewster-Geisz@noaa.gov),

Carrie Soltanoff (Carrie.Soltanoff@noaa.gov), or Ann Williamson

(Ann.Williamson@noaa.gov) by email, or by phone at (301) 427-8503 for information on

the scoping document for Amendment 16.

SUPPLEMENTARY INFORMATION:

Background

Atlantic HMS fisheries are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). The 2006 Consolidated HMS FMP and its amendments are implemented by regulations at 50 CFR part 635.

Under the Magnuson-Stevens Act, conservation and management measures must prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery (16 U.S.C. 1851(a)(1)). Where a fishery is determined to be in or approaching an overfished condition, NMFS must adopt conservation and management measures to prevent or end overfishing and rebuild the fishery (16 U.S.C. 1853(a)(10) and 1854(e)). In addition, NMFS must, among other things, comply with the Magnuson-Stevens Act's 10 National Standards, including a requirement to use the best scientific information available as well as to consider potential impacts on residents of different States, efficiency, costs, fishing communities, bycatch, and safety at sea (16 U.S.C. 1851(a)(1-10)). Internationally, the International Commission for the Conservation of Atlantic Tunas (ICCAT) has issued recommendations for the conservation of shark species caught in association with ICCAT fisheries, while the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) has passed measures that place requirements or restrictions on the trade of some shark species and shark fins.

In Amendment 14 (88 FR 4157, January 24, 2023), NMFS sets forth a revised framework for establishing quotas and related management measures for Atlantic shark fisheries. This amendment incorporated, for potential use, several optional fishery management tools that were adopted in the revised guidelines for implementing National

Standard 1 (NS1) of the Magnuson-Stevens Act (81 FR 71858, October 18, 2016).

Amendment 14 modified the general procedures that are followed in establishing the ABC and ACLs, and the process used to account for carryover or underharvest of quotas. It also allows the option to phase-in ABC control rules and to adopt multi-year overfishing status determination criteria (SDC) in certain circumstances.

In addition to Amendment 14, NMFS recently developed the Atlantic shark fishery review (SHARE) document (88 FR 16944, March 21, 2023). This document analyzed trends within the commercial and recreational shark fisheries to identify main areas of success and concerns with conservation and management measures and to find ways to improve management of the shark fishery. Overall, the review found that NMFS is sustainably managing shark stocks; however, the commercial shark fishery is in decline in terms of use of available quota and the number of participants. This decline is happening despite fishermen having available quotas for many species, and, in most regions, an open season year-round. The review also identified a need in the recreational fishery to improve angler education so that improved species identification could improve shark fishery data, thus improving management overall. The final report can be found here: <https://www.fisheries.noaa.gov/action/atlantic-shark-fishery-review-share>.

Additionally, some recent national and international regulations are likely to have direct and indirect impacts on the commercial shark fishery. On December 23, 2022, President Biden signed into law the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (NDAA), Pub. L. 117-263. Section 5946(b) of the NDAA, which is also known as the Shark Fin Sales Elimination Act, makes it illegal, with certain exceptions, to possess, buy, sell, or transport shark fins or any product containing shark fins, with an exemption for smooth or spiny dogfish fins. The Agency is currently considering a separate rule to implement the Shark Fin Sales Elimination Act.

Internationally, the Convention on International Trade in Endangered Species of Wild

Fauna and Flora (CITES) has passed measures to list all *Carcharhinidae* species (requiem sharks) under Appendix II, with a 12-month implementation delay. This listing means that as of November 2023, all of the authorized shark species, except for smoothhound sharks, in our fishery management unit will require CITES permits before any trade can occur. At this time, the impacts of the Shark Fin Sales Elimination Act and CITES listing are unknown. However, in the scoping document, we consider several management options that could add flexibility to the fishery in order to be reactive to these additional factors affecting the Atlantic shark fisheries.

Through the scoping document, NMFS is beginning the process under the revised framework for establishing quotas and related management measures for Atlantic shark fisheries, as established in Amendment 14. Additionally, the scoping document provides examples of how NMFS could potentially implement the ABC control rule finalized in Amendment 14, while also considering options on the potential process. These potential changes also lead NMFS to consider options to potentially revise commercial shark management groups and quotas, since shark ACLs would be revised and some of the management groups might not be suitable. Since external factors (markets, different state and international regulations, *etc.*) have impacted participation in the shark fishery, NMFS is considering options to update the commercial retention limits to ensure the fishery stays viable in the future. In the recreational shark fishery, the number of trips targeting or catching coastal sharks has stayed fairly consistent, while target effort levels for pelagic sharks have decreased significantly since the prohibition on shortfin mako sharks. In response to these changes, NMFS is reviewing the current recreational shark fishery regulations. This includes considering options for the authorized species list, minimum size limits, and bag limits. The current list of authorized species for recreational fishermen has been in place since 2008 when NMFS revised the list based on the sandbar shark stock assessment. Minimum size limits and bag limits for sharks are the

main accountability measures NMFS can implement to control or adjust recreational shark harvest rates during the fishing year.

Given the substantial amount of existing relevant information (*e.g.*, Amendment 14, SHARE, and various state and international actions), the scoping document for this FMP amendment outlines some potential management measures for Atlantic shark fisheries. The list of management measures should not be considered an exhaustive list. The management options are intended to facilitate discussion of the merits of each range of topics under consideration. Interested members of the public are encouraged to provide specific suggestions and recommendations on the options or other options that NMFS should consider.

Request for Comments

NMFS anticipates large overall changes to shark management through Amendment 16. In the scoping document, NMFS details a wide range of potential management options based on the framework action in Amendment 14 and the findings from the SHARE document. The scoping document along with the public hearing presentation is available online at the HMS website:

<https://www.fisheries.noaa.gov/action/scoping-amendment-16-2006-consolidated-atlantic-highly-migratory-species-fishery-management>. Three in-person scoping meetings and two virtual scoping meetings will be held to provide the opportunity for public comment on these potential management options (Table 1). Any comments received on the scoping document will be used to assist in the development of options to be considered in Amendment 16.

Table 1 -- Dates, Times, and Locations of Upcoming Public Hearings and Conference Calls

Venue	Date/time	Street Address / Webinar Information
Conference call / Webinar	May 25, 2023 2 p.m. to 4 p.m.	<i>https://www.fisheries.noaa.gov/action/scoping-amendment-16-2006-consolidated-atlantic-highly-migratory-species-fishery-management</i>

Public Hearing	June 13, 2023 5 p.m. to 8 p.m.	Belle Chasse Auditorium 8398 LA-23 Belle Chasse, LA 70037
Public Hearing	June 21, 2023 5 p.m. to 8 p.m.	Cocoa Beach Public Library 550 North Brevard Ave Cocoa Beach, FL 32931
Public Hearing	July 25, 2023 5:30 p.m. to 8:30 p.m.	Dare County Library - Manteo 700 Highway 64/264 Manteo, NC 27954
Conference call / Webinar	August 7, 2023 2 p.m. to 4 p.m.	https://www.fisheries.noaa.gov/action/scoping-amendment-16-2006-consolidated-atlantic-highly-migratory-species-fishery-management

The public is reminded that NMFS expects participants at in-person and virtual scoping meetings to conduct themselves appropriately. At the beginning of each meeting, a representative of NMFS will explain the ground rules (*e.g.*, all comments are to be directed to the Agency; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The in-person meeting locations will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Guy DuBeck at 301-427-8503, at least 7 days prior to the meeting. A NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment if they so choose, regardless of the controversial nature of the subject matter. If attendees do not respect the ground rules they will be asked to leave the scoping meeting. For the virtual scoping meetings, participants are strongly encouraged to log/dial in 15 minutes prior to the meeting. NMFS will show the presentations via webinar and allow public comment during identified times on the agenda

In addition to the scoping meetings, NMFS will discuss the topics of this NOI at the HMS Advisory Panel meeting, May 9-11, 2023. The HMS Advisory Panel meeting will be accessible via conference call and webinar. Conference call and webinar access information are available at: <https://www.fisheries.noaa.gov/action/scoping-amendment->

16-2006-consolidated-atlantic-highly-migratory-species-fishery-management. NMFS has requested to present the scoping document to the five Atlantic Regional Fishery Management Councils (the New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils) and the Atlantic and Gulf States Marine Fisheries Commissions during the public comment period. Please see the Councils' and Commissions' meeting notices for times and locations. NMFS anticipates that a proposed rule and draft environment impact statement (DEIS) will be available in 2024 and the Final Amendment 16 and its related documents will be available in 2025.

Dated: May 2, 2023.

Jennifer M. Wallace,

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National Marine Fisheries Service.

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