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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 600**

[Docket No. 111014628-6513-02]

RIN 0648-BB54

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Implementation of the Shark Conservation Act of 2010

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

ACTION: Final rule.

SUMMARY: This final action updates agency regulations consistent with provisions of the Shark Conservation Act of 2010 (SCA) and prohibits any person from removing any of the fins of a shark at sea, possessing shark fins on board a fishing vessel unless they are naturally attached to the corresponding carcass, transferring or receiving fins from one vessel to another at sea unless the fins are naturally attached to the corresponding carcass, landing shark fins unless they are naturally attached to the corresponding carcass, or landing shark carcasses without their fins naturally attached. This action amends existing regulations and makes them consistent with the SCA.

DATES: Effective July 29, 2016.

ADDRESSES: Copies of the Environmental Assessment (EA)/Regulatory Impact Review (RIR)/Final Regulatory Flexibility Analysis (FRFA) prepared for this action can be obtained from: Erin Wilkinson, National Marine Fisheries Service, 1315 East-West Highway, Room 13437, Silver Spring MD 20910. An electronic copy of the EA/RIR/FRFA document as well as copies of public comments received can be viewed at the Federal e-rulemaking portal: <http://www.regulations.gov/> (Docket ID: NOAA-NMFS-2012-0092).

FOR FURTHER INFORMATION CONTACT: Erin Wilkinson by phone at 301-427-8561, or by email: erin.wilkinson@noaa.gov or sca.rulemaking@noaa.gov.

SUPPLEMENTARY INFORMATION:**I. Overview of the Shark Conservation Act**

Background information and an overview of the Shark Conservation Act

can be found in the preamble of the proposed rule published on May 2, 2013 (78 FR 25685). Copies are available from NMFS (see **ADDRESSES**), or can be viewed electronically at the Federal E-Rulemaking portal for this action: <http://www.regulations.gov>.

II. Major Components of the Final Action

Retaining a shark fin while discarding the shark carcass (shark finning) has been prohibited in the United States since the 2000 Shark Finning Prohibition Act. The 2010 SCA included provisions that amended the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to prohibit any person from: (1) Removing any of the fins of a shark (including the tail) at sea; (2) having custody, control, or possession of a fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass; (3) transferring a fin from one vessel to another vessel at sea, or receiving a fin in such transfer, unless the fin is naturally attached to the corresponding carcass; or (4) landing a fin that is not naturally attached to the corresponding carcass, or landing a shark carcass without its fins naturally attached. For the purpose of the SCA and these regulations, “naturally attached,” with respect to a shark fin, means to be attached to the corresponding shark carcass through some portion of uncut skin.

This action amends NMFS’ regulations consistent with these provisions of the SCA. Specifically, the rule amends regulations at 50 CFR part 600, subpart N, to prohibit the removal of shark fins at sea, namely, the possession, transfer and landing of shark fins that are not naturally attached to the corresponding carcass, and the landing of shark carcasses without the corresponding fins naturally attached. In the preamble to the proposed rule, NMFS noted that it interprets the prohibitions in subpart N as applying to sharks, not skates and rays, and solicited public comment on whether clarification was needed in the regulatory text on this issue. See 78 FR 25685, 25686 (May 2, 2013). NMFS received only one public comment on this point, which was supportive of this interpretation, and NMFS thus affirms in this final rule that the prohibitions do not apply to skates and rays.

This final rule also updates subpart N to be consistent with section 103(b) of the SCA regarding an exception for individuals engaged in commercial fishing for smooth dogfish. Interpretation of that exception was addressed in a rule finalized in

November 2015, for Amendment 9 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (November 24, 2015; 80 FR 73128). That final rule, among other things, allows for the at-sea removal of smooth dogfish fins provided that fishing occurs within 50 nautical miles of shore along the Atlantic Coast from Maine through the east coast of Florida; smooth dogfish fin weight does not exceed 12 percent of the carcass weight on board; smooth dogfish make up at least 25 percent of the total retained catch, by weight; and the fisherman/vessel holds both federal and state permits appropriate for the retention of smooth dogfish.

This final rule also combines the existing §§ 600.1203 and 600.1204 into one section. The text throughout 50 CFR part 600, subpart N, is amended to make it consistent with the provisions of the SCA.

The MSA authorizes the Secretary to regulate fisheries seaward of the inner boundary of the U.S. exclusive economic zone (EEZ), which is defined as a line coterminous with the seaward boundary of each U.S. coastal state. 16 U.S.C. 1802(11). Thus, as noted in the proposed rule, the SCA provisions apply to any person subject to the jurisdiction of the United States, including persons on board U.S. and foreign vessels, engaging in activities prohibited under the statute with respect to sharks harvested seaward of the inner boundary of the EEZ. See 78 FR 25685, 25686 (May 2, 2013). Federal regulations pertaining to the conservation and management of specific shark fisheries are set forth in parts 635, 648, and 660 of title 50 of the Code of Federal Regulations. For Atlantic highly migratory species fisheries, as a condition of its Federal permit, a vessel’s fishing, catch, and gear are subject to federal requirements even when fishing in state waters. See 50 CFR 635.4(a)(10) (noting also that, when fishing within the waters of a state with more restrictive regulations, persons aboard the vessel must comply with those requirements). This rule amends 50 CFR part 600, subpart N, and does not supersede or amend any other federal regulation or requirement related to the conservation and management of sharks.

The SCA also amended the High Seas Driftnet Fishing Moratorium Protection Act, which provides for identification and certification of nations to address illegal, unreported, or unregulated fishing; bycatch of protected living marine resources; and, as amended by the SCA, shark catches. 16 U.S.C. 1826h–1826k. With regard to sharks, the High Seas Driftnet Fishing Moratorium

Protection Act provides for identification of a nation if its fishing vessels 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 sharks that is comparable to the United States', taking into account different conditions. 16 U.S.C. 1826k(a)(2). NMFS published a final rule that amended the High Seas Driftnet Fishing Moratorium Protection Act regulations, to make them consistent with these provisions of the SCA, on January 16, 2013 (78 FR 3338).

III. Relationship of Regulations With Current State Laws

The MSA provides for Federal management of fisheries in the U.S. exclusive economic zone (16 U.S.C. 1812(a)). In § 600.1201(d) of the proposed rule, NMFS noted that State and territorial statutes that address shark fins are preempted if they are inconsistent with the MSA as amended by the Shark Conservation Act of 2010, regulations under this part, and applicable federal fishery management plans and regulations. This text did not state that specific state laws were in fact preempted, and the proposed regulations themselves would not have preempted any state or territorial laws. NMFS included this text because a number of states and territories had enacted their own laws regarding shark fins, and NMFS was concerned that some of those laws, which differ from state to state, might restrict the possession of shark fins in a way that could conflict with the broader goals of the MSA as amended by the SCA, and might therefore be preempted by the MSA as amended by the SCA.

NMFS engaged in extensive discussions with states and territories that have existing shark fin laws. During these discussions, the states and territories all expressed concern over language in the proposed rule regarding the potential for preemption of state shark fin laws that conflict with the SCA. In those discussions, NMFS sought additional information about the nature and details of the state laws and fisheries, economic factors, and the ability of federally-permitted shark fishermen to dispose of legally-landed shark fins. Following the discussions described above and further exchanges of information between NMFS and the relevant states and territories, NMFS has determined that the current shark fin laws for these states and territories are consistent with, and therefore are not preempted by, the MSA as amended by

the SCA: California, Delaware, Hawaii, Maryland, Massachusetts, New York, Oregon, Washington, the Commonwealth of the Northern Mariana Islands, and Guam. The bases for these conclusions were that the shark fin laws in those states and territories would have minimal impacts on federally licensed and permitted shark harvesters, because the laws did not prohibit federally licensed and permitted fishermen from landing a legally-caught shark with fins naturally attached or selling the non-fin parts of the shark, and, based on the scale and nature of the shark fisheries in those states and territories, the laws would have minimal impacts on federal fishermen. Copies of letters exchanged between NMFS and applicable states and territories documenting those conclusions may be found on the Office of Sustainable Fisheries Web site: http://www.nmfs.noaa.gov/sfa/laws_policies/sca/index.html. Copies of letters may also be requested by contacting NMFS (See ADDRESSES). Should the facts presented to NMFS change significantly, NMFS may re-engage in discussions with the applicable state or territory. NMFS is currently in discussions with one other territory that passed a shark fin law, American Samoa. NMFS encourages any state or territory considering shark fin legislation to reach out to NMFS to discuss such legislation, and NMFS will continue to take appropriate steps, including engaging with states as necessary, to support federally licensed and permitted shark harvesters.

IV. Response to Comments

NMFS received over 180,000 public comments on the proposed rule. These comments came from non-governmental organizations, members of Congress, Fishery Management Councils and Commissions, state governments, commercial and recreational fishermen, and other interested members of the public. Many of the comment letters were similar or raised similar issues. NMFS reviewed and considered all comments during the development of this final rule. Due to the large volume of comments received and the overlapping nature of many of the comments, we have not responded to each individually, but instead have responded to the major topics addressed in the comments. Many comments expressed support for the rule as written and have not been summarized below.

Topic 1: Several fishermen from California commented that they support the SCA, but that the proposed rule ignored the details of their shark fishery. They indicated that due to the large size

of many of the sharks (mainly mako and thresher sharks) they harvest, the fins must be removed in order to untangle the shark from the net. If not allowed to cut the fins and land the carcass without the fins, they will have to discard the animal after it has been untangled, or be in violation of the law. These commenters requested that they be able to discard the fins at sea and land the carcass without the fins. Some also requested an exemption for the California fleet that is similar to the one for dogfish where fins landed must be less than a given percentage of the total catch landed.

Response to topic 1: The SCA does not provide an exemption for the shark fisheries off California. The only exemption provided under the statute pertains to individuals engaged in commercial fishing for smooth dogfish in certain areas of the Atlantic Ocean. See SCA section 103(b). While NMFS recognizes the nature of the mako and thresher shark fisheries, we presently do not have the authority under the SCA or any other statute to allow fins from these sharks to be removed at sea. An exemption for these fisheries would require a statutory change.

Topic 2: Many commenters mentioned their concern about the depletion of shark species and the important role of sharks in ocean ecology. These commenters expressed support for shark protection and swift enactment of this rule. Additional comments (over 80) contained similar statements and asked for NMFS to implement the SCA.

Response to topic 2: The SCA and all of its requirements have been in effect since January 4, 2011. NMFS notes that this rule updates existing shark finning regulations at 50 CFR part 600, subpart N, with regulations containing language that is consistent with the text of the SCA. As explained above, the international provisions of the SCA were implemented through a final rule published on January 16, 2013 (78 FR 3338), and the smooth dogfish exemption provisions of the SCA were implemented through a final rule published on November 24, 2015 (80 FR 73128). With the publication of this final rule, all provisions of the SCA have been incorporated into agency regulations.

Topic 3: A large number of comments from states, non-governmental organizations, and the public expressed concern about the preemption language in the preamble and regulatory text of the proposed rule, and asked NMFS to remove the preemption language from the preamble and regulatory text of the final rule. Many commenters asked

NMFS not to preempt state laws through the regulations or suggested that NMFS was attempting to preempt state laws through the regulations. Commenters expressed that states should have the ability to regulate the sale of shark fins within their jurisdictions, and are well within their rights to do so. Some commenters also stated that NMFS took an improper approach to coordinating with states that have shark fin legislation. For example, many commenters felt it was improper to include preemption language in the proposed rule before understanding the impacts of that language, indicating which specific state laws would be preempted, or discussing the proposed rule with potentially affected states. In addition, we received a number of comments that were specific to individual state laws from state legislators, attorneys general, and governors asserting why their state laws did not conflict with the SCA.

Response to topic 3: As explained above in Section III, and in light of Executive Order (E.O.) 13132, which calls on Federal agencies to consult with potentially affected state and local governments prior to promulgating a final rule with federalism implications, NMFS engaged in extensive discussions with states and territories that have enacted shark fin laws, and is currently in discussions with one other territory that has passed a shark fin law, American Samoa. Based on those discussions, and information provided to NMFS by the states and territories, NMFS and the states and territories identified in Section III have reached agreement that the laws in those states and territories are not preempted by the MSA as amended by the SCA. Comments on the proposed rule from state legislators, attorneys general, and governors regarding their individual state laws are not summarized here, but were addressed through the discussions with individual states and territories. NMFS has addressed concerns raised in those comments regarding potential preemption of individual state laws through exchanges of letters with the individual states and territories that document that the laws are not in conflict with or preempted by the MSA as amended by the SCA, for the reasons described in Section III above. The extent to which any state shark fin law conflicts with and might be preempted by the MSA as amended by the SCA is a fact-specific determination to be made on a case-by-case basis.

As explained above, proposed § 600.1201(d) did not state that any state law was in fact preempted, and other sections of this rule merely codify SCA

text. Any preemption would stem from a conflict between the MSA, as amended by the SCA, and a state law. NMFS has decided to remove § 600.1201(d), though, given public comment on and apparent confusion regarding the language.

Topic 4: Many commenters stated that they believe state shark fin bans and the SCA can work together, and instead of preempting state laws, NMFS should find a way to collaborate with the individual states.

Response to topic 4: NMFS and the states regularly work together on fisheries management issues, and will continue to do so in the future. As explained in Section III and the response to topic 3, NMFS engaged in extensive discussions with states and territories that have existing shark fin laws. NMFS and the states and territories identified in Section III have reached agreement that the current shark fin laws in those states or territories are consistent with, and therefore are not preempted by, the MSA as amended by the SCA. NMFS is currently in discussions with one other territory that has passed a shark fin law, American Samoa. NMFS encourages any state or territory considering shark fin legislation to reach out to NMFS to discuss such legislation, and NMFS will continue to take appropriate steps, including engaging with states as necessary, to support federally licensed and permitted shark harvesters.

Topic 5: NMFS received multiple comments from seafood processors, seafood associations, Fishery Management Councils, seafood dealers, fishery partnerships, and an environmental organization that felt that those individuals and organizations working to seek total bans on shark fin trade and consumption at the state level are undermining U.S. efforts to be a leader in sustainably-managed shark fishing. Some of these commenters stated that the individual state shark fin bans need to cease, as they interfere with interstate commerce.

Response to topic 5: Through this and other rulemakings referenced above, NMFS has incorporated all provisions of the SCA into agency regulations. As explained above, NMFS has engaged in discussions with states with shark fin laws and has concluded that they do not conflict with the MSA as amended by the SCA. The SCA supports U.S. efforts to be a leader in sustainably-managed shark fisheries. The issue of interstate commerce is beyond the scope of this rulemaking, because this rule is only updating agency regulations consistent with the SCA. Any potential interstate commerce issues would be caused by

individual state laws, and therefore would not be properly addressed here.

Topic 6: NMFS received multiple comments from seafood processors, seafood associations, dealers and fishery partnerships, Fishery Management Councils, and a scientist that expressed support for the opinion that state laws are preempted if they are inconsistent with the MSA as amended by the SCA, with some commenters asserting that this was an accurate representation of the Supremacy Clause. These commenters expressed support for preemption of state shark fin laws.

Response to topic 6: As explained in Section III, the MSA authorizes Federal fisheries management in the U.S. exclusive economic zone. This rule itself does not preempt any state laws, and any potential preemption would be due to a conflict with the MSA as amended by the SCA. As explained above, NMFS has had discussions with certain states and territories with shark fin laws and has determined that none of the shark fin laws in those states and territories conflicts with or is preempted by the MSA as amended by the SCA.

Topic 7: Multiple comments mentioned the savings clause in the Shark Conservation Act and the exemption for commercial fishermen engaged in commercial fishing for smooth dogfish. These commenters do not agree with having an exemption for smooth dogfish or a ratio set at 12 percent. Only one commenter expressed support for use of the statutory fin-to-carcass ratio.

Response to topic 7: The SCA explicitly provided for a smooth dogfish exemption. Eliminating that exemption would require a statutory change. NMFS addressed interpretation of the exemption in a separate rulemaking. The final rule for that action was published on November 24, 2015 (80 FR 73128).

Topic 8: Many commenters made general statements about shark fishing and shark conservation, including stating that sharks should not be fished, expressing concern about sharks, urging added conservation mechanisms for sharks, supporting bans on all shark fishing, or providing suggestions on how they believed NMFS could improve shark management.

Response to topic 8: These comments are beyond the scope of this rulemaking, which only updates agency regulations consistent with the SCA and doesn't address management measures for specific shark fisheries. NMFS is a leader in the sustainable management of domestic shark fisheries and the global conservation of sharks. Sharks are among the ocean's top predators and

vital to the natural balance of marine ecosystems. They are also a valuable recreational species and food source. To help protect these important marine species, the United States has some of the strongest shark conservation and management measures in the world. NMFS manages the commercial and recreational shark fisheries in the Atlantic Ocean and Gulf of Mexico and works with U.S. regional fishery management councils to conserve and sustainably manage sharks in the Pacific Ocean.

The U.S. manages shark fisheries using an adaptive process under the MSA based on sound science, effective and enforced management measures, and collaboration with diverse stakeholders, states, and federal partners. Sustainably managed shark fisheries provide opportunities for both commercial and recreational fishermen.

NMFS also works with international organizations to establish global shark conservation and management measures. In addition to prohibiting shark finning in the United States, we continue to promote our fins-naturally-attached policy overseas.

Topic 9: Many commenters interpreted the proposed rule as NMFS supporting the return of longliners to Hawaii and urged NMFS to prohibit such activity.

Response to topic 9: These comments are beyond the scope of this rulemaking. This rule only updates agency regulations consistent with the SCA, and does not address the longline fishery in Hawaii.

V. Changes From Proposed Action

NMFS made only two changes from the proposed rule. First, based on NMFS' discussions with states with shark fin laws and on public comments, NMFS has removed preemption language in the proposed rule from the regulatory text of the final rule. Specifically, NMFS removed proposed § 600.1201(d), which stated that State and territorial statutes that address shark fins are preempted if they are inconsistent with the MSA as amended by the Shark Conservation Act of 2010, regulations under this part, and applicable federal fishery management plans and regulations.

Second, NMFS revised § 600.1201(b), which addresses the exception for individuals engaged in commercial fishing for smooth dogfish. Specifically, NMFS combined proposed paragraphs (b)(1) and (2) and replaced the proposed language for those paragraphs with a cross-reference to the relevant paragraph in NMFS' regulations that interprets the smooth dogfish exception

(§ 635.30(c)(5)), which was finalized on November 24, 2015 (80 FR 73128), after the proposed rule for this rulemaking was published. This change was made to ensure that NMFS' interpretation and application of the smooth dogfish exception is consistent across NMFS' regulations and to make it easy for the reader to find the applicable provisions. This is not a substantive change from the proposed rule, because the language codified in § 635.30(c)(5) is consistent with the language originally proposed for § 600.1201(b)(1), and the definition of "Atlantic States" (§ 635.2) applicable to § 635.30(c)(5) is consistent with the definition of "State" originally proposed in § 600.1201(b)(2).

VI. Classification

Pursuant to section 305(d) of the MSA, NMFS has determined that this final rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132

As explained in Section III and the response to comments, several states and territories have enacted statutes that address shark fins. In light of E.O. 13132, and in the interest of working with them, NMFS engaged in discussions with states and territories that have existing shark fin laws, and NMFS and the states and territories identified in Section III have reached agreement that the current shark fin laws in those states and territories are consistent with, and therefore are not preempted by, the MSA as amended by the SCA.

The final rule is necessary to update NMFS' regulations to be consistent with the SCA, and it does not preempt any state laws. Any federalism implications are triggered by the provisions of the MSA, as amended by the SCA. The extent to which any state shark fin law conflicts with and might be preempted by the MSA itself, as amended by the SCA, is a fact-specific determination to be made on a case-by-case basis. Thus, after considering the public comment on and apparent confusion regarding the language, NMFS has removed the preemption language from the final rule.

Should the facts presented to NMFS regarding any existing state or territory shark fin law change significantly, NMFS may re-engage in discussions with the applicable state or territory. If any additional states or territories are

considering enacting shark fin laws, NMFS encourages them to reach out to NMFS to discuss such legislation. NMFS will continue to take appropriate steps, including engaging with states as necessary, to support federally licensed and permitted shark harvesters.

Regulatory Flexibility Act

Pursuant to section 604 of the Regulatory Flexibility Act (RFA), NMFS has prepared a Final Regulatory Flexibility Analysis (FRFA) in support of this action. The FRFA incorporates the Initial Regulatory Flexibility Analysis (IRFA) that was published with the proposed rule for this action, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' response to those comments, relevant analysis contained in the action and its Environmental Assessment (EA), and a summary of the analyses in this rule. Copies of the analyses, EA, and FRFA are available from NMFS (see **ADDRESSES**). A summary of the FRFA follows. A description of why this action was considered, its objectives, and the legal basis for this rule is contained in the preamble to the proposed rule and is not repeated here.

The rule updates agency regulations consistent with provisions of the SCA and prohibits any person from removing any of the fins of a shark at sea, possessing shark fins on board a fishing vessel unless they are naturally attached to the corresponding carcass, transferring or receiving fins from one vessel to another at sea unless the fins are naturally attached to the corresponding carcass, landing shark fins unless they are naturally attached to the corresponding carcass, or landing shark carcasses without their fins naturally attached. This action amends existing regulations and makes them consistent with the SCA.

No significant issues were raised by the public comments in response to the IRFA. The Chief Counsel for Advocacy of the Small Business Administration (SBA) did not provide any comments on the IRFA. NMFS received one comment on the proposed rule that suggested that the preemption language would impact the commenter's business. However, as explained in section III and the response to comment topic 3, any preemption would stem from a conflict between the MSA, as amended by the SCA, and a state law. In any event, NMFS has removed the preemption language from the final rule, and therefore, the commenter's concern has been addressed.

The FRFA contains new economic information that was added to clarify

information about large mesh and small mesh drift gillnet gears in the Pacific. This new information did not change the finding of no significant economic impact on small entities. Also, Section 604(a)(4) of the RFA requires agencies to provide an estimate of the number of small entities to which the rule would apply. On June 24, 2014, the Small Business Administration (SBA) issued a final rule revising the small business size standards for several industries, effective July 14, 2014 (79 FR 33647). The rule increased the size standard for Finfish Fishing from \$19.0 to 20.5 million, Shellfish Fishing from \$5.0 to 5.5 million, and Other Marine Fishing from \$7.0 to 7.5 million. *Id.* at 37400. NMFS has reviewed the analyses prepared for this action in light of the new size standards. Under the former, lower size standards, all entities subject to this action were considered small entities, thus they would continue to be considered small entities under the new standards. NMFS does not believe that the new size standards affect analyses prepared for this action.

No duplicative, overlapping, or conflicting Federal rules have been identified. This rule does not establish any new reporting or record-keeping requirements.

One alternative, the status quo, was considered for the proposed action. This alternative would maintain the current regulations under the Shark Finning Prohibition Act. Under this alternative, any person may remove and retain on the vessel fins (including the tail) from a shark harvested seaward of the inner boundary of the U.S. EEZ; however, the corresponding carcass must also be retained on board the vessel. It would be a rebuttable presumption that shark fins landed by a U.S. or foreign fishing vessel were taken, held, or landed in violation of the regulations if the total weight of the shark fins landed exceeds 5 percent of the total dressed weight of shark carcasses on board or landed from the fishing vessel. NMFS rejected this alternative because it would not comply with the requirements of the SCA. No other alternatives meet the statutory requirements, and so none were considered.

List of Subjects in 50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

Dated: June 21, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 600 as follows:

PART 600—MAGNUSON-STEVENSON ACT PROVISIONS

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

■ 2. Subpart N is revised to read as follows:

Subpart N—Shark Fin Removal, Possession, Transfer and Landing

Sec.

600.1200 Purpose and scope.
600.1201 Relation to other laws.
600.1202 Definitions.
600.1203 Prohibitions.

Subpart N—Shark Fin Removal, Possession, Transfer and Landing

§ 600.1200 Purpose and scope.

The regulations in this subpart implement the Shark Conservation Act of 2010.

§ 600.1201 Relation to other laws.

(a) Regulations pertaining to conservation and management (including record keeping and reporting) for certain shark fisheries are also set forth in parts 635 (for Federal Atlantic Ocean, Gulf of Mexico, and Caribbean shark fisheries), 648 (for spiny dogfish fisheries), 660 (for fisheries off West Coast states), and 665 (for fisheries in the western Pacific) of this chapter.

(b) This subpart does not apply to an individual engaged in commercial fishing for smooth dogfish (*Mustelus canis*) when the conditions in § 635.30(c)(5) have been met.

(c) This subpart does not supersede state laws or regulations governing conservation and management of state shark fisheries in state waters.

§ 600.1202 Definitions.

(a) In addition to the definitions in the Magnuson-Stevens Act and in § 600.10, the terms used in this subpart have the following meanings:

Fin means any of the fins of a shark (including the tail) or a portion thereof.

Land or landing means offloading fish, or causing fish to be offloaded, from a fishing vessel, either to another vessel or to a shore side location or facility, or arriving in port, or at a dock,

berth, beach, seawall, or ramp to begin offloading fish.

Naturally attached, with respect to a shark fin, means attached to the corresponding shark carcass through some portion of uncut skin.

(b) If there is any difference between a definition in this section and in § 600.10, the definition in this section is the operative definition for the purposes of this subpart.

§ 600.1203 Prohibitions.

(a) It is unlawful for any person to do, or attempt to do, any of the following:

(1) Remove a fin at sea.

(2) To have custody, control, or possession of a fin, aboard a fishing vessel, unless the fin is naturally attached.

(3) Transfer a fin from one vessel to another vessel at sea unless the fin is naturally attached.

(4) Receive a fin in a transfer from one vessel to another vessel at sea unless the fin is naturally attached.

(5) Land a fin unless the fin is naturally attached.

(6) Land a shark carcass without all of its fins naturally attached.

(7) Possess, purchase, offer to sell, or sell fins or shark carcasses taken, transferred, landed, or possessed in violation of this section.

(8) When requested, fail to allow an authorized officer or any employee of NMFS designated by a Regional Administrator, or by the Director of the Office of Sustainable Fisheries in the case of the Atlantic Highly Migratory Species, access to or inspection or copying of any records pertaining to the landing, sale, transfer, purchase, or other disposition of fins or shark carcasses.

(b) For purposes of this section, it is a rebuttable presumption that:

(1) If a fin is found aboard a vessel, other than a fishing vessel, without being naturally attached, such fin was transferred in violation of this section.

(2) If, after landing, the total weight of fins landed from any vessel exceeds five percent of the total weight of shark carcasses landed, such fins were taken, held, or landed in violation of this section.

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