

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635****[Docket No. 140429387–4738–01]****RIN 0648–XD276****Atlantic Highly Migratory Species;
2015 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 opening dates and adjust quotas for the 2015 fishing season for the Atlantic commercial shark fisheries. Quotas would be adjusted as allowable based on any over- and/or underharvests experienced during 2014 and previous fishing seasons. In addition, NMFS proposes season openings 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 October 14, 2014.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2014–0077, 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-2014-0077, 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 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). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

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 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.

Accounting for Under- and Overharvests

This proposed rule would adjust the quota levels for the different shark stocks and management groups for the 2015 Atlantic commercial shark fishing season based on over- and underharvests that occurred during 2014 and previous fishing seasons, consistent with existing regulations at 50 CFR 635.27(b)(2). Over- and underharvests are accounted for the following year in the same region and/or fishery in which they occurred, 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 that 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.

For the sandbar shark, aggregated large coastal shark (LCS), hammerhead shark, non-blacknose small coastal shark (SCS), blacknose shark, blue shark, porbeagle shark, and pelagic shark (other than porbeagle or blue sharks) management groups, the 2014 underharvests cannot be carried over to the 2015 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 2015 proposed quotas would be equal to the appropriate base quota minus any overharvests that occurred in 2014 and previous fishing seasons, as applicable.

For the Gulf of Mexico blacktip shark management group, which has been determined not to be overfished and have no overfishing occurring, available underharvest (up to 50 percent of the base quota) from the 2014 fishing season can be applied to the 2015 quota, and NMFS proposes to do so in 2015.

2015 Proposed Quotas

This rule proposes adjustments to the base commercial quotas due to over- and underharvests that occurred in 2014 and previous fishing seasons, where allowable, taking into consideration the stock status as required under existing regulations.

The quotas in this proposed rule are based on dealer reports received as of August 15, 2014. In the final rule, NMFS will adjust the quotas based on dealer reports received as of October or November 2014. NMFS is not specifying the date, but would choose a date from middle October to middle November based on the timing of the final rule. In past season rules, NMFS has used dates from October 18 through November 26, depending on the timing of the final rule. Thus, all of the 2015 proposed quotas for the respective stocks and management groups will be subject to further adjustment after NMFS considers the October/November dealer reports. All dealer reports that are received after the October or November date will be used to adjust the 2016 quotas, as appropriate.

In the final rule establishing quotas for the 2014 shark season (78 FR 70500; November 26, 2013), NMFS decided to spread out the 2012 overharvest of the blacknose shark quota across 5 years in both the Atlantic and Gulf of Mexico regions. Thus, in this rule, the blacknose shark quota will be reduced by 0.5 mt dw for the Atlantic region. This reduction will happen each year through 2018. The 0.5 mt dw reduction

represents 3 percent of the Atlantic region blacknose quota. In the Gulf of Mexico region, accounting for the overharvest over 5 years results in a 0.2 mt dw reduction that will be taken from the Gulf of Mexico regional base quota every year through 2018. This reduction represents 10 percent of the Gulf of

Mexico region blacknose baseline quota. Thus, before accounting for any landings from 2014, the 2015 adjusted annual quota for the Atlantic blacknose shark management group would be 17.5 mt dw (38,638 lb dw), while the adjusted annual quota for the Gulf of Mexico blacknose shark management

group would be 1.8 mt dw (4,076 lb dw).

The proposed 2015 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.

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Table 1. 2015 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 August 15, 2014; final quotas are subject to change based on landings as of October or November 2014. 1 mt = 2,204.6 lb.

Management Group	Region	2014 Annual Quota (A)	Preliminary 2014 Landings ¹ (B)	Adjustments (C)	2015 Base Annual Quota (D)	2015 Proposed Annual Quota (D+C)	Season Opening Dates
Blacktip Sharks	Gulf of Mexico	274.3 mt dw (604,626 lb dw)	200.9 mt dw (442,861 lb dw)	73.4 mt dw (161,765 lb dw) ²	256.6 mt dw (565,700 lb dw)	330.0 mt dw (727,465 lb dw)	January 1, 2015
Aggregated Large Coastal Sharks		151.2 mt dw (333,828 lb dw)	152.7 mt dw (336,466 lb dw)	- 1.4 mt dw (3,046 lb dw) ³	157.5 mt dw (347,317 lb dw)	156.1 mt dw (344,271 lb dw)	
Hammerhead Sharks		25.3 mt dw (55,722 lb dw)	13.8 mt dw (30,447 lb dw)	-	25.3 mt dw (55,722 lb dw)	25.3 mt dw (55,722 lb dw)	
Aggregated Large Coastal Sharks	Atlantic	168.9 mt dw (372,552 lb dw)	56.7 mt dw (124,931 lb dw)	-	168.9 mt dw (372,552 lb dw)	168.9 mt dw (372,552 lb dw)	June 1, 2015
Hammerhead Sharks		27.1 mt dw (59,736 lb dw)	3.3 mt dw (7,381 lb dw)	-	27.1 mt dw (59,736 lb dw)	27.1 mt dw (59,736 lb dw)	
Non-Sandbar LCS Research	No regional quotas	50.0 mt dw (110,230 lb dw)	9.9 mt dw (21,752 lb dw)	-	50.0 mt dw (110,230 lb dw)	50.0 mt dw (110,230 lb dw)	January 1, 2015
Sandbar Shark Research		116.6 mt dw (257,056 lb dw)	30.1 mt dw (66,265 lb dw)	-	116.6 mt dw (257,056 lb dw)	116.6 mt dw (257,056 lb dw)	
Non-Blacknose Small Coastal Sharks	Gulf of Mexico	68.3 mt dw (150,476 lb dw)	44.4 mt dw (97,960 lb dw)	-	45.5 mt dw (100,317 lb dw)	45.5 mt dw (100,317 lb dw)	

Blacknose Sharks		1.8 mt dw (4,076 lb dw)	0.8 mt dw (1,724 lb dw)	-0.2 mt dw (-437 lb dw) ⁴	2.0 mt dw (4,513 lb dw)	1.8 mt dw (4,076 lb dw)
Non-Blacknose Small Coastal Sharks	Atlantic	264.1 mt dw (582,333 lb dw)	100.7 mt dw (222,010 lb dw)	-	176.1 mt dw (388,222 lb dw)	176.1 mt dw (388,222 lb dw)
Blacknose Sharks		17.5 mt dw (38,638 lb dw)	17.5 mt dw (38,681 lb dw)	-0.5 mt dw (-1,154 lb dw) ⁴	18.0 mt dw (39,749 lb dw)	17.5 mt dw (38,638 lb dw)
Blue Sharks	No regional quotas	273.0 mt dw (601,856 lb dw)	7.8 mt dw (17,157 lb dw)	-	273.0 mt dw (601,856 lb dw)	273.0 mt dw (601,856 lb dw)
Porbeagle Sharks		1.3 mt dw (2,874 lb dw)	0.1 mt dw (248 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 mt dw (1,075,856 lb dw)	109.3 mt dw (241,013 lb dw)	-	488.0 mt dw (1,075,856 lb dw)	488.0 mt dw (1,075,856 lb dw)

¹ Landings are from January 1, 2014, through August 15, 2014, and are subject to change.

² This adjustment accounts for underharvest in 2014. Therefore, the Gulf of Mexico blacktip shark adjusted would be 330.0 mt dw for the 2015 fishing season.

³ This adjustment accounts for overharvest in 2013 and 2014. In the final rule establishing the 2014 quotas (78 FR 70500; November 26, 2013), the 2013 Gulf of Mexico aggregated LCS quota was overharvested by 6.2 mt dw (13,489 lb dw). After the final rule establishing the 2014 quotas published, late dealer reports indicated the quota was overharvested by an additional 0.1 mt dw (408 lb dw). In 2014, the 2014 Gulf of Mexico aggregated LCS quota was overharvested by 1.3 mt dw (2,638 lb dw). While the numbers in the table shows the landings were overharvested by 1.5 mt dw (152.7 - 151.2 mt dw), this result is due to multiple rounding errors when converting between lb dw and mt dw. NMFS establishes the quota in mt dw but dealers report in lb dw. When the same calculation is conducted in lb dw and then converted to mt dw, the overharvest equals 1.4 mt dw (336,466-333,828= 2,638 lb dw). Thus, NMFS is proposing to reduce the 2015 base annual quota based on the additional 2013 overharvest and overharvest from 2014.

⁴ This adjustment accounts for overharvest in 2012 and 2014. After the final rule establishing the 2012 quotas published, late dealer reports indicated the blacknose shark quota was overharvested by 3.5 mt dw (7,742 lb dw). In the final rule establishing the 2014 quotas, NMFS implemented a 5-year adjustment of the overharvest amount by the percentage of landings in 2012. Thus, NMFS will reduce the Gulf of Mexico blacknose sharks by 0.2 mt dw (437 lb dw) and the Atlantic blacknose sharks by 0.5 mt dw (1,111 lb dw) for the next 5 years. In 2014, the 2014 Atlantic blacknose shark quota was overharvested by less than 0.1 mt dw (43 lb dw). Thus, NMFS is proposing to reduce the 2015 base annual quota based on the additional 2014 overharvest and overharvest from 2012.

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1. Proposed 2015 Quotas for the Blacktip Sharks in the Gulf of Mexico Region

The 2015 proposed quota for blacktip sharks in the Gulf of Mexico region is 330.0 mt dw (727,465 lb dw). As of August 15, 2014, preliminary reported landings for blacktip sharks in the Gulf of Mexico region were at 73 percent (200.9 mt dw) of their 2014 quota levels. Reported landings have not exceeded the 2014 quota to date, and the fishery was closed on June 2, 2014 (79 FR 31227). 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), any underharvests for blacktip sharks within the Gulf of Mexico region therefore could be applied to the 2015 quotas as allowable. During the 2014 fishing season to date, the Gulf of Mexico blacktip shark quota has been underharvested by 73.4 mt dw (161,765 lb dw). Accordingly, NMFS proposes to increase the 2015 Gulf of Mexico blacktip shark quota to adjust for anticipated underharvests in 2014 as allowed. The proposed 2015 adjusted base annual quota for Gulf of Mexico blacktip sharks is 330.0 mt dw (727,465 lb dw) (256.6 mt dw annual base quota + 73.4 mt dw 2014 underharvest = 330.0 mt dw 2015 adjusted annual quota).

2. Proposed 2015 Quotas for the Aggregated Large Coastal Sharks in the Gulf of Mexico Region

The 2015 proposed quota for aggregated LCS in the Gulf of Mexico region is 156.1 mt dw (344,271 lb dw). As of August 15, 2014, preliminary reported landings for aggregated LCS in the Gulf of Mexico region were at 101 percent (152.7 mt dw) of their 2014 quota levels. Reported landings have exceeded the 2014 quota to date, and the fishery was closed on May 20, 2014 (79 FR 28849). In addition, there was unaccounted Gulf of Mexico aggregated LCS overharvest in 2013. In the final rule establishing the 2014 quotas, the 2013 Gulf of Mexico aggregated LCS quota was overharvested by 6.2 mt dw (13,489 lb dw). After the final rule establishing the 2014 quotas published, late dealer reports indicated the quota was overharvested by an additional 0.1 mt dw (408 lb dw). Thus, NMFS is proposing to reduce the 2015 base annual quota based on the additional 2013 overharvest and overharvest from 2014. Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2)(i), NMFS is proposing to adjust 2015 quotas for aggregated LCS in the Gulf of

Mexico region due to overharvests in 2013 and 2014. The proposed 2015 adjusted base annual quota for Gulf of Mexico aggregated LCS is 156.1 mt dw (344,271 lb dw) (157.5 mt dw annual base quota – 0.1 mt dw 2013 overharvest – 1.2 mt dw 2014 overharvest = 156.1 mt dw 2015 adjusted annual quota).

3. Proposed 2015 Quotas for the Aggregated Large Coastal Sharks in the Atlantic Region

The 2015 proposed quota for aggregated LCS in the Atlantic region is 168.9 mt dw (372,552 lb dw). As of August 15, 2014, preliminary reported landings for aggregated LCS in the Atlantic region were at 34 percent (56.7 mt dw) of their 2014 quota levels. Reported landings have not exceeded the 2014 quota to date. Given the unknown status of some of the shark species within the Atlantic aggregated LCS management group, any underharvests cannot be accounted for pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS is not proposing to adjust 2015 quotas for aggregated LCS in the Atlantic region, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

4. Proposed 2015 Quotas for Hammerhead Sharks in the Gulf of Mexico and Atlantic Region

The 2015 proposed commercial quotas for hammerhead sharks in the Gulf of Mexico and Atlantic regions are 25.3 mt dw (55,722 lb dw) and 27.1 mt dw (59,736 lb dw), respectively. As of August 15, 2014, preliminary reported landings for hammerhead sharks were at 55 percent (13.8 mt dw) of their 2014 quota levels in the Gulf of Mexico region, and were at 12 percent (3.3 mt dw) of their 2014 quota levels in the Atlantic region. Reported landings have not exceeded the 2014 quota to date. Given the overfished status of hammerhead sharks, any underharvests cannot be accounted for pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS is not proposing to adjust 2015 quotas for hammerhead sharks in the Gulf of Mexico and Atlantic regions, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

5. Proposed 2015 Quotas for Research Large Coastal Sharks and Sandbar Sharks Within the Shark Research Fishery

The 2015 proposed commercial quotas within the shark research fishery are 50.0 mt dw (110,230 lb dw) for research LCS and 116.6 mt dw (257,056 lb dw) for sandbar sharks. Within the shark research fishery, as of August 15, 2014, preliminary reported landings of research LCS were at 20 percent (9.9 mt dw) of their 2014 quota levels, and sandbar shark reported landings were at 26 percent (30.1 mt dw) of their 2014 quota levels. Reported landings have not exceeded the 2014 quota 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 would not be applied to the 2015 quotas. Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS is not proposing to adjust 2015 quotas in the shark research fishery because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

6. Proposed 2015 Quotas for the Non-Blacknose Small Coastal Sharks in the Gulf of Mexico Region

The 2015 proposed annual commercial quotas for non-blacknose SCS in the Gulf of Mexico region is 45.5 mt dw (100,317 lb dw). As of August 15, 2014, preliminary reported landings of non-blacknose SCS were at 65 percent (44.4 mt dw) of their 2014 quota levels in the Gulf of Mexico region. Reported landings have not exceeded the 2014 quota to date. Given the unknown status of bonnethead sharks within the Gulf of Mexico non-blacknose SCS management group, any underharvests cannot be accounted for pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS is not proposing to adjust 2015 quotas for non-blacknose SCS in the Gulf of Mexico region, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

7. Proposed 2015 Quotas for the Non-Blacknose Small Coastal Sharks in the Atlantic Region

The 2015 proposed annual commercial quotas for non-blacknose

SCS in the Atlantic region is 176.1 mt dw (388,222 lb dw). As of August 15, 2014, preliminary reported landings of non-blacknose SCS were at 38 percent (100.7 mt dw) of their 2014 quota levels in the Atlantic region. Reported landings have not exceeded the 2014 quota to date and the fishery was closed on July 28, 2014 (79 FR 43267). Given the overfished status of bonnethead sharks within the Atlantic non-blacknose SCS management group, any underharvests cannot be accounted for pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent with the current regulations at § 635.27(b)(2), NMFS is not proposing to adjust 2015 quotas for non-blacknose SCS in the Atlantic region, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

8. Proposed 2015 Quotas for the Blacknose Sharks in the Gulf of Mexico Region

The 2015 proposed annual commercial quotas for blacknose sharks in the Gulf of Mexico region is 1.8 mt dw (4,076 lb dw). As of August 15, 2014, preliminary reported landings of blacknose sharks were at 42 percent (0.8 mt dw) of their 2014 quota levels in the Gulf of Mexico region. Reported landings have not exceeded the 2014 quota to date. Blacknose sharks have been declared to have an unknown status in the Gulf of Mexico region. Pursuant to § 635.27(b)(2)(i), any overharvests of blacknose sharks would be applied to the regional quotas over a maximum of 5 years. As described above, the 2012 blacknose quota was overharvested and NMFS decided to adjust the regional quotas over 5 years to mitigate the impacts of adjusting for the overharvest in 1 year. Therefore, consistent with § 635.27(b), the 2015 proposed adjusted base quota for blacknose sharks in the Gulf of Mexico region is 1.8 mt dw (4,076 lb dw) (2.0 mt dw annual base quota – 0.2 mt dw 2012 adjusted 5-year overharvest = 1.8 mt dw 2015 adjusted annual quota).

9. Proposed 2015 Quotas for the Blacknose Sharks in the Atlantic Region

The 2015 proposed annual commercial quotas for blacknose sharks in the Atlantic region is 17.5 mt dw (38,595 lb dw). As of August 15, 2014, preliminary reported landings of blacknose sharks were at 101 percent (17.5 mt dw) of their 2014 quota levels in the Atlantic region. Reported landings have exceeded the 2014 quota to date by less than 0.1 mt dw (43 lb dw), and the fishery was closed on July 28, 2014 (79 FR 43267). Blacknose

sharks have been declared to be overfished with overfishing occurring in the Atlantic region. Pursuant to § 635.27(b)(2)(i), any overharvests of blacknose sharks would be applied to the regional quotas over a maximum of 5 years. As described above, the 2012 blacknose quota was overharvested and NMFS decided to adjust the regional quotas over 5 years to mitigate the impacts of adjusting for the overharvest in 1 year. Therefore, consistent with § 635.27(b), the 2015 proposed adjusted base quota for blacknose sharks in the Gulf of Mexico region is 17.5 mt dw (38,595 lb dw) (18.0 mt dw annual base quota – 0.5 mt dw 2012 adjusted 5-year overharvest – <0.1 mt dw 2014 overharvest = 17.5 mt dw 2015 adjusted annual quota).

10. Proposed 2015 Quotas for Pelagic Sharks

The 2015 proposed annual 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 August 15, 2014, preliminary reported landings of blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle and blue sharks) were at 3 percent (7.8 mt dw), 9 percent (0.1 mt dw), and 22 percent (109.3 mt dw) of their 2014 quota levels, respectively. These pelagic species are overfished, have overfishing occurring, or have an unknown status. Therefore, the 2015 proposed quotas would be the base annual quotas (without adjustment) for blue sharks, porbeagle sharks, and pelagic sharks (other than blue and porbeagle sharks), or 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.

Proposed Fishing Season Notification for the 2015 Atlantic Commercial Shark Fishing Season

For each fishery, NMFS considered the seven “Opening Fishing Season Criteria” listed at § 635.27(b)(3). These include:

(i) The available annual quotas for the current fishing season for the different species/management groups based on any over- and/or underharvests experienced during the previous commercial shark fishing seasons; (ii) Estimated season length based on available quota(s) and average weekly catch rates of different species and/or management group from the previous years; (iii) Length of the season for the different species and/or management group in the previous years and whether fishermen were able to participate in the fishery in those years; (iv) Variations in seasonal distribution,

abundance, or migratory patterns of the different species/management groups based on scientific and fishery information; (v) 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; (vi) Effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments; and/or, (vii) Effects of a delayed opening with regard to fishing opportunities in other fisheries.

Specifically, NMFS examined the 2014 and previous fishing years’ over- and/or underharvests of the different management groups to determine the effects of the 2015 proposed quotas on fishermen across regional fishing area. NMFS also examined the potential season length and previous catch rates to ensure that equitable fishing opportunities would be provided to fishermen. Lastly, NMFS examined the seasonal variation of the different species/management groups and the effects on fishing opportunities.

NMFS is proposing that the 2015 Atlantic commercial shark fishing season for all shark management groups in the northwestern Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, except the aggregated LCS and hammerhead shark management groups in the Atlantic region, open on or about January 1, 2015, after the publication of the final rule for this action. NMFS proposes to open the aggregated LCS and hammerhead shark management groups in the Atlantic region on June 1, 2015.

In the Gulf of Mexico region, opening the fishing season again on or about January 1 for aggregated LCS, blacktip sharks, and hammerhead sharks would provide, to the extent practicable, equitable opportunities across the fisheries management region as it did for the 2013 and 2014 fishing seasons. This opening date is consistent with all the criteria listed in § 635.27(b)(3), but particularly with the criterion that NMFS considered the length of the season for the different species and/or management group in the previous years and whether fishermen were able to participate in the fishery in those years.

In the Atlantic region, NMFS proposes opening the aggregated LCS and hammerhead shark management groups on June 1, 2015. During the 2014 shark season proposed rule (78 FR 52487; August 23, 2013) comment period, NMFS received comments from the public to delay the opening date until later in the year. Public comments from the southern part of the region requested opening dates ranging from May 1 through July 1 for the aggregated LCS and hammerhead management

groups, including requests to change the opening date due to concerns about the status of lemon sharks in Florida waters. Public comments from the northern part of the Atlantic region expressed concern that the proposed opening date of January 1 for the aggregated LCS and hammerhead management groups would not allow equitable fishing opportunities in the northern area because sharks are not present in their area at that time. In February 2014, the Atlantic States Marine Fisheries Commission (ASMFC) Coastal Shark Board, which manages shark fisheries in state waters and follows NMFS' opening and closing dates, approved a motion to submit a letter to NMFS requesting a postponement of the aggregated LCS season until July 1 for the 2015 fishing season. The Board decided a July 1, 2015, date would provide states the greatest access to the resource. To date, NMFS has yet to receive this written request. Taking into consideration the opening date criteria, public comments from 2013 and 2014, and the February 2014 vote of the ASMFC Coastal Shark Board, NMFS believes that delaying the opening date would promote equitable fishing opportunities in the Atlantic region. However, at this time, because it took a full 9 months to harvest approximately 92 percent of the aggregated LCS quota in 2013 and just under 6 months to harvest approximately 80 percent of the non-sandbar LCS quota in 2012, NMFS is concerned that waiting until July 1, 2015, as suggested by the ASMFC Coastal Shark Board, may not provide fishermen the opportunity to fully harvest the 2015 quota. Based on the issues described above and the opening fishing season criteria listed in § 635.27(b)(3), NMFS is proposing opening the aggregated LCS and hammerhead management groups in the Atlantic region on June 1, 2015. However, at the time of writing this proposed rule, the aggregated LCS and hammerhead management groups in the Atlantic region have only been open for a few months (since June 1, 2014), and NMFS does not know the fishing rates or the potential amount of underharvested quota yet. Thus, NMFS in the final rule might consider an earlier opening date if the fishing rates are slow, and/or it appears there will be a large amount of underharvested quota in 2014. Similarly, NMFS might consider a later opening date in the final rule if the fishing rates are fast, and/or it appears there will be either a small amount of underharvested quota or a quota exceedance in 2014.

All of the shark management groups would remain open until December 31, 2015, or until NMFS determines that the fishing season landings for any shark management group has reached, or is projected to reach, 80 percent of the available quota. In the final rule for Amendment 5a to the 2006 Consolidated HMS FMP (78 FR 40318, July 3, 2013), NMFS established non-linked and linked quotas and explained that the linked quotas are explicitly designed to concurrently close multiple shark management groups that are caught together to prevent incidental catch mortality from exceeding the total allowable catch. At that time, consistent with § 635.28(b)(1) for non-linked quotas (e.g., Gulf of Mexico blacktip or pelagic sharks), NMFS will file for publication with the Office of the Federal Register a notice of closure for that shark species, shark management group, and/or region 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 the shark species or management group are closed, even across fishing years.

For linked quotas consistent with § 635.28(b)(2), NMFS will file for publication with the Office of 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 is closed, even across fishing years. The linked quotas of the species and/or management groups are Atlantic hammerhead sharks and Atlantic aggregated LCS; Gulf of Mexico hammerhead sharks and Gulf of Mexico aggregated LCS; Atlantic blacknose and Atlantic non-blacknose SCS; and Gulf of Mexico blacknose and Gulf of Mexico non-blacknose SCS. 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. Before taking any inseason action, NMFS would consider the criteria listed at § 635.28(b)(4).

In 2012 and 2013, NMFS determined that the proposed rule to implement Amendment 5 to the 2006 Consolidated HMS FMP (77 FR 70552; November 26, 2012) and final rule to implement Amendment 5a to the 2006

Consolidated HMS FMP (78 FR 40318; July 3, 2013) 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. 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 2015 fishing season for the Atlantic commercial shark fisheries does not change the framework previously consulted upon; therefore, no additional consultation is required.

Public Hearings

Public hearings on this proposed rule are not currently scheduled. If you would like to request a public hearing, please contact Guý DuBeck or Karyl Brewster-Geisz by phone at 301-427-8503.

Classification

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

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

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. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. 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 2015 commercial shark fishing quotas and fishing seasons. Without this rule, the commercial shark fisheries would close on December 31, 2014, 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) and to establish the opening dates of the various management groups in order to provide, to the extent practicable, equitable opportunities across the fishing management region while also considering the ecological needs of the species.

Section 603(b)(3) of the RFA requires Federal 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. On June 12, 2014, the SBA issued an interim final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33467; June 12, 2014). The rule increased the size standard from \$19.0 to \$20.5 million for finfish fishing, from \$5 to \$5.5 million for shellfish fishing, and from \$7.0 million to \$7.5 million for other marine fishing, for-hire businesses, and marinas. Id. at 33656, 33660, 33666.

Pursuant to the Regulatory Flexibility Act, and prior to SBA's June 12 interim final rule, an initial regulatory flexibility analysis was developed for this action using SBA's former size standards. NMFS has reviewed the analyses prepared for this action in light of the new size standards. The new standards would result in no new entities being considered small.

Taking this change into consideration, at this time, NMFS has identified no additional significant alternatives that accomplish statutory objectives and minimize any significant economic impacts of the proposed rule on small entities. Under the former, lower size standards, all entities subject to this action were considered small entities, thus they all would continue to be considered small under the new standards. NMFS considers all HMS permit holders to be small entities because they either had average annual receipts of less than \$4.0 million for fish-harvesting, average annual receipts of less than \$7.0 million for Charter/

headboat, 100 or fewer employees for wholesale dealers, or 500 or fewer employees for seafood processors. The commercial shark fisheries are comprised of fishermen who hold shark directed or incidental limited access permits and the related industries, including processors, bait houses, and equipment suppliers, all of which NMFS considers to be small entities according to the size standards set by the SBA. The proposed rule would apply to the approximately 213 directed commercial shark permit holders, 262 incidental commercial shark permit holders, and 94 commercial shark dealers as of August 2014. NMFS solicits public comment on the IRFA in light of the new size standards.

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 (ESA), the National Environmental Policy Act, the Paperwork Reduction Act, and the Coastal Zone Management Act.

On July 3, 2014, NMFS published a final rule to list four Distinct Populations Segments (DPS) of scalloped hammerhead sharks (*Sphyrna lewini*): Two as threatened (Central and Southwest Atlantic DPS and Indo-West Pacific DPS) and two as endangered (Eastern Atlantic DPS and Eastern Pacific DPS) under the ESA (79 FR 38214). The Central and Southwest Atlantic DPS consists primarily of the population found in the Caribbean Sea and off the Atlantic coast of Central and South America (includes all waters of the Caribbean Sea, including the U.S. EEZ off Puerto Rico and the U.S. Virgin Islands). The Central and Southwest Atlantic DPS occurs within the boundary of Atlantic HMS commercial and recreational fisheries, which are managed by NMFS. NMFS has reviewed the data and found that the limited commercial catch data available indicate that scalloped hammerhead sharks are rarely targeted by commercial fishermen in the Central and Southwest Atlantic DPS, but rather are caught as bycatch. NMFS will be developing a more detailed analysis regarding effects to the Central and Southwest DPS of

scalloped hammerhead sharks to be used in formal consultation on the Atlantic HMS fisheries. However, in the meantime, because this rulemaking would not make any changes to the current HMS regulations nor would have any regulatory changes, NMFS has preliminarily determined that the ongoing operations of the fisheries is consistent with existing biological opinions and is not likely to jeopardize the continued existence or result in an irreversible or irretrievable commitment of resources which would foreclose formulation or implementation of any reasonable and prudent alternative measures on the threatened Central and Southwest DPS of scalloped hammerhead sharks.

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 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. Similarly, the proposed quotas and opening date are consistent with the requirements of the Magnuson-Stevens Act that were previously analyzed in the EA with the 2011 shark quota specifications rule. 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 2013 ex-vessel price, fully harvesting the unadjusted 2015 Atlantic shark commercial baseline quotas could result in total fleet revenues of \$4,671,260 (see Table 2). For the Gulf of Mexico blacktip shark management group, NMFS is proposing

to adjust the baseline quotas upward due to the underharvests in 2014. The upward adjustment for the Gulf of Mexico blacktip shark management group could result in a \$96,493 gain in total revenues for the fleet.

NMFS is proposing to reduce the baseline for other species due to overharvests. For instance, NMFS is proposing to reduce the aggregated LCS management group in the Gulf of Mexico due to overharvests in 2013 and 2014. This would cause a potential loss in revenue of \$2,030 for the entire fleet in the Gulf of Mexico. NMFS will reduce the blacknose shark management group for the next 5 years to account for overharvest in 2012. This would cause a potential loss in revenue of \$431 for the fleet in the Gulf of Mexico region. In the Atlantic region, NMFS is proposing additional reductions of the blacknose shark management group due

to overharvests in 2014. This total amount would cause a potential loss in revenue of \$1,602 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 FRFAs for those amendments concluded that the economic impacts on these small entities—resulting from rules such as this one that adjust the trip limits inseason through proposed and final rulemaking—are expected to be minimal. In the 2006 Consolidated HMS FMP and its amendments and the EA for the 2011 shark quota specifications rule, it is assumed that NMFS would be conducting annual rulemakings and considering the potential economic impacts of adjusting the quotas for under- and overharvests at that time.

TABLE 2—AVERAGE EX-VESSEL PRICES PER LB DW FOR EACH SHARK MANAGEMENT GROUP, 2013

Year	Species	Region	Price
2013	Aggregated LCS	Gulf of Mexico	\$0.49
		Atlantic	0.81
	Blacktip Shark	Gulf of Mexico	0.42
		Atlantic	0.41
	Hammerhead Shark	Gulf of Mexico	0.64
		Atlantic	0.72
	LCS Research	Both	0.78
	Sandbar Research	Both	0.78
	Non-Blacknose SCS	Gulf of Mexico	0.32
		Atlantic	0.70
	Blacknose Shark	Gulf of Mexico	0.81
		Atlantic	0.83
	Blue shark	Both	0.28
	Porbeagle shark	Both	* 1.15
	Other Pelagic sharks	Both	1.69
		Gulf of Mexico	3.53
	Shark Fins	Atlantic	11.16
		Both	6.05

* Since the porbeagle shark management group was closed for 2013, there was no 2013 price data. Thus, NMFS used price data from 2012.

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 while also considering the ecological needs of the different species. The opening of the fishing season could vary depending upon the available annual quota, catch rates, and number of fishing participants during the year. For the 2015 fishing season, NMFS is proposing to open all of the shark management groups, except the aggregated LCS and hammerhead shark management groups in the Atlantic region 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 will be neutral on a short- and long-term basis, because NMFS did not change the

opening dates of these fisheries from the status quo.

NMFS proposes to open the aggregated LCS and hammerhead shark management groups in the Atlantic region on June 1, 2015. This delay could result in short-term, direct, minor, adverse economic impacts as fishermen and dealers in the southern portion of the Atlantic region would not be able to fish for aggregated LCS and hammerhead sharks starting in January as was the case in 2013, but would still be able to fish earlier in the 2015 fishing season compared to the 2010 through 2012 fishing seasons, which did not start until July 15. This delay could result in neutral economic impacts when compared to the 2014 fishing season because the proposed opening date is the same as the 2014 fishing season. Based on public comment,

Atlantic fishermen in the southern portion of the region prefer a delayed opening for the potential to be fishing for aggregated LCS and hammerhead sharks from October through December. Therefore, the delayed opening could have direct, minor, beneficial economic impacts for fishermen since there are limited opportunities for fishermen to fish for non-HMS in the southern portion of the Atlantic region later in the year. In the northern portion of the Atlantic region, a delayed opening for the aggregated LCS and hammerhead shark management groups would have direct, minor, beneficial economic impacts in the short-term for fishermen as they would have access to the aggregated LCS and hammerhead shark quotas in 2015. Overall, delaying the opening until June 1 could cause beneficial cumulative economic impacts

across the region, because it could allow for a more equitable distribution of the quotas among fishermen in this region. The economic impacts would be neutral on long-term basis, because this delayed

opening could be for only the 2015 fishing season.

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

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