evidence on the record considered as a whole.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2022–24728 Filed 11–10–22; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 221107–0236; RTID 0648–XC082]

Atlantic Highly Migratory Species; 2023 Atlantic Shark Commercial Fishing Year

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

ACTION: Final rule.

SUMMARY: This final rule adjusts the quotas and retention limits and establishes the opening date for the 2023 fishing year for the Atlantic commercial shark fisheries. Quotas are adjusted as required or allowable based on underharvests from the 2022 fishing year. NMFS establishes the opening date and commercial retention limits to provide, to the extent practicable, fishing opportunities for commercial shark fishermen in all regions and areas. The final measures could affect fishing opportunities for commercial shark fishermen in the northwestern Atlantic Ocean, Gulf of Mexico, and Caribbean Sea.

DATES: This final rule is effective on January 1, 2023. The 2023 Atlantic shark commercial fishing year opens on January 1, 2023 for all species and regions.

ADDRESSES: Electronic copies of this final rule and supporting documents (including the annual Atlantic Highly Migratory Species (HMS) Stock Assessment and Fishery Evaluation Report and the Atlantic HMS Best Scientific Information Available Regional Framework (BSIA Regional Framework)) are available from the Atlantic HMS Management Division website at *https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species* or by contacting Ann Williamson at *ann.williamson@noaa.gov* or 301–427–8503.

FOR FURTHER INFORMATION CONTACT: Ann Williamson (*ann.williamson@noaa.gov*), Guy DuBeck (*guy.dubeck@noaa.gov*), or Karyl Brewster-Geisz (*karyl.brewster-geisz@noaa.gov*) at 301–427–8503.

SUPPLEMENTARY INFORMATION:

Background

Atlantic shark fisheries are managed primarily under the 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 (16 U.S.C. 971 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (2006 Consolidated HMS 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 default commercial shark retention limits, quotas for species and management groups, and accountability measures for underharvests and overharvests. The retention limits, commercial quotas, and accountability measures can be found at 50 CFR 635.24(a), 635.27(b), and 635.28(b). Regulations also include provisions allowing flexible opening dates for the fishing year (§ 635.27(b)(3)) and inseason adjustments to shark trip limits (§ 635.24(a)(8)), which provide management flexibility in furtherance of equitable fishing opportunities, to the extent practicable, for commercial shark fishermen in all regions and areas. In addition, § 635.28(b)(4) lists species and management groups with quotas that are linked. If quotas are linked, when the specified quota threshold for one management group or species is reached and that management group or species is closed, the linked management group or species closes at the same time (§ 635.28(b)(3)). Lastly, pursuant to § 635.27(b)(2), any annual or inseason adjustments to the base annual commercial overall, regional, or sub-regional quotas will be published in the **Federal Register**.

Background information about the need to adjust the quotas and retention limits and establish the opening date for the 2023 fishing year for the Atlantic commercial shark fisheries was provided in the proposed rule (87 FR 55379, September 9, 2022) and is not repeated here. The comment period for the proposed rule closed on October 11, 2022. NMFS received 99 written comments, the majority of which were form letter submissions. Summaries of the comments received, and our responses to those comments, are in the Response to Comments section. Similar comments are combined, where appropriate. After reviewing and considering all the public comments received on the proposed rule, NMFS is finalizing the rule as proposed.

2023 Commercial Shark Quotas

In this final rule, NMFS adjusts the quota levels for the various shark stocks and management groups for the 2023 Atlantic commercial shark fishing year (*i.e.,* January 1 through December 31, 2023) based on underharvests that occurred during the 2022 fishing year, consistent with existing regulations at § 635.27(b). Unharvested quota may be added to the quota for the next fishing year, but only for shark management groups that have shark stocks that are declared not overfished and not experiencing overfishing. No more than 50 percent of a base annual quota may be carried over from a previous fishing year.

Based on 2022 harvests that were reported by September 30, 2022, and after considering catch rates and landings from previous years, with this final rule, NMFS adjusts the 2023 quotas for certain management groups as shown in Table 1. NMFS anticipates that dealer reports received after that time will be used to adjust 2024 quotas, as appropriate, noting that, in some circumstances, NMFS re-adjusts quotas during the subject year. A description of the calculations for each stock and management group is provided in the proposed rule and is not repeated here.

TABLE 1—2023 QUOTAS AND OPENING DATES FOR THE ATLANTIC SHARK MANAGEMENT GROUPS

Region or sub-region	Management group	2022 Annual quota (A)	Preliminary 2022 landings [1] (B)	Adjustments [2] (C)	2023 Base annual quota (D)	2023 Final annual quota (D + C)	Season opening date
Western Gulf of Mexico.	Blacktip Sharks	347.2 mt (765,392 lb)	220.1 mt (485,297 lb)	115.7 mt (255,131 lb)	231.5 mt (510,261 lb)	347.2 mt (765,392 lb).	January 1, 2023.
	Aggregate Large Coastal Sharks [3].	72.0 mt (158,724 lb)	68.0 mt (149,951 lb)		72.0 mt (158,724 lb)	72.0 mt (158,724 lb).	

TABLE 1—2023 QUOTAS AND OPENING DATES FOR THE ATLANTIC SHARK MANAGEMENT GROUPS—Continued

Region or sub-region	Management group	2022 Annual quota (A)	Preliminary 2022 landings[1] (B)	Adjustments[2] (C)	2023 Base annual quota (D)	2023 Final annual quota (D + C)	Season opening date
	Hammerhead Sharks[4].	11.9 mt (26,301 lb)	<2.0 mt (<4,409 lb)		11.9 mt (26,301 lb)	11.9 mt (26,301 lb).	
Eastern Gulf of Mexico.	Blacktip Sharks	37.7 mt (83,158 lb)	5.2 mt (11,548 lb)	12.6 mt (27,719 lb)	25.1 mt (55,439 lb)	37.7 mt (83,158 lb).	
	Aggregate Large Coastal Sharks[3].	85.5 mt (188,593 lb)	25.5 mt (56,230 lb)		85.5 mt (188,593 lb)	85.5 mt (188,593 lb).	
	Hammerhead Sharks[4].	13.4 mt (29,421 lb)	3.6 mt (7,899 lb)		13.4 mt (29,421 lb)	13.4 mt (29,421 lb).	
Gulf of Mexico	Non-Blacknose Small Coastal Sharks.	112.6 mt (428,215 lb)	27.3 mt (60,289 lb)		112.6 mt (428,215 lb)	112.6 mt (428,215 lb).	
	Smoothhound Sharks.	504.6 mt (1,112,441 lb)	<1.0 mt (<2,205 lb)	168.2 mt (370,814 lb)	336.4 mt (741,627 lb)	504.6 mt (1,112,441 lb).	
Atlantic	Aggregate Large Coastal Sharks.	168.9 mt (372,552 lb)	61.4 mt (135,422 lb)		168.9 mt (372,552 lb)	168.9 mt (372,552 lb).	January 1, 2023.
	Hammerhead Sharks[4].	27.1 mt (59,736 lb)	23.4 mt (51,510 lb)		27.1 mt (59,736 lb)	27.1 mt (59,736 lb).	
	Non-Blacknose Small Coastal Sharks.	264.1 mt (582,333 lb)	47.5 mt (104,635 lb)		264.1 mt (582,333 lb)	264.1 mt (582,333 lb).	
	Blacknose Sharks (South of 34° N. lat. Only).	17.2 mt (3,973,902 lb)	3.5 mt (7,673 lb)		17.2 mt (3,973,902 lb)	17.2 mt (3,973,902 lb).	
	Smoothhound Sharks.	1,802.6 mt (3,973,902 lb)	267.7 mt (590,205 lb)	600.9 mt (1,324,634 lb)	1,201.7 mt (2,649,268 lb)	1,802.6 mt (3,973,902 lb).	
No Regional Quotas.	Non-Sandbar Large Coastal Shark Research.	50.0 mt (110,230 lb)	2.3 mt (4,983 lb)		50.0 mt (110,230 lb)	50.0 mt (110,230 lb).	January 1, 2023.
	Sandbar Shark Research.	90.7 mt (199,943 lb)	39.4 mt (86,809 lb)		90.7 mt (199,943 lb)	90.7 mt (199,943 lb).	
	Blue Sharks	273.0 mt (601,856 lb)	<1.0 mt (<2,205 lb)		273.0 mt (601,856 lb)	273.0 mt (601,856 lb).	
	Porbeagle Sharks	1.7 mt (3,748 lb)	0.0 mt (0 lb)		1.7 mt (3,748 lb)	1.7 mt (3,748 lb).	
	Pelagic Sharks Other Than Porbeagle or Blue.	488.0 mt (1,075,856 lb)	22.5 mt (49,622 lb)		488.0 mt (1,075,856 lb)	488.0 mt (1,075,856 lb).	

Note: All quotas and landings are dressed weight (dw).

[1] Landings are from January 1–September 30, 2022, and are subject to change.

[2] Underharvest adjustments can only be applied to stocks or management groups that are declared not overfished and have no overfishing occurring. The underharvest adjustments cannot exceed 50 percent of the base quota.

[3] NMFS transferred 11.3 mt dw of the aggregate Large Coastal Shark quota from the Gulf of Mexico eastern sub-region to the western sub-region on June 28, 2022 (87 FR 38676, June 29, 2022).

[4] NMFS transferred 6.8 mt dw of the hammerhead quota from the western Gulf of Mexico sub-region to the Atlantic region on June 28, 2022 (87 FR 38676, June 29, 2022).

Opening Dates and Retention Limits

After considering the ''Opening Commercial Fishing Season Criteria'' listed at § 635.27(b)(3), and ''Inseason Trip Limit Adjustment Criteria'' listed at § 635.24(a)(8), NMFS is opening the 2023 Atlantic commercial shark fishing season for all shark management groups in the northwestern Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, on January 1, 2023 (Table 2). NMFS is also starting the 2023 commercial shark fishing season with the commercial retention limit of 55 large coastal sharks (LCS) other than sandbar sharks per vessel per trip in both the eastern and western Gulf of Mexico sub-regions as well as in the Atlantic region (Table 2). As needed, NMFS may adjust the retention limit throughout the year to ensure equitable fishing opportunities throughout the region and ensure the quota is not exceeded (see the criteria at § 635.24(a)(8)).

All of the regional or sub-regional commercial fisheries for shark management groups would remain open until December 31, 2023, or until NMFS determines that the landings for any shark management group are projected to reach 80 percent of the quota given the realized catch rates and are projected to reach 100 percent of the quota before the end of the fishing season, or until a quota-linked species or management group is closed. For the regional or sub-regional Gulf of Mexico blacktip shark management group(s), regulations at § 635.28(b)(5)(i) through (v) authorize NMFS to close the management group(s) before landings have reached, or are projected to reach, 80 percent of the quota after considering the criteria and other relevant factors. NMFS manages each Atlantic shark management group by using a specific commercial annual catch limit, with some linkages among shark management groups whose species are often caught together. The linked and non-linked quotas are shown in Table 2.

If NMFS determines that a shark species or management group fishery must be closed, then NMFS will publish in the **Federal Register** a notice of closure for that shark species, shark management group, region, and/or sub-region. The closure will be effective no fewer than 4 days from the date of filing for public inspection with the Office of the Federal Register. The fisheries for the shark species or management group would be closed (even across fishing years) from the effective date and time of the closure until NMFS publishes in the **Federal Register** a notice that additional quota is available and the season is reopened.

TABLE 2—QUOTA LINKAGES, SEASON OPENING DATES, AND COMMERCIAL RETENTION LIMIT BY REGIONAL OR SUB-REGIONAL SHARK MANAGEMENT GROUP

Region or sub-region	Management group	Quota linkages[1]	Season opening date	Commercial retention limits for directed shark limited access permit holders[2]
Western Gulf of Mexico	Blacktip Sharks	Not Linked	January 1, 2023	55 LCS other than sandbar sharks per vessel per trip.
	Aggregate Large Coastal Sharks	Linked.		

TABLE 2—QUOTA LINKAGES, SEASON OPENING DATES, AND COMMERCIAL RETENTION LIMIT BY REGIONAL OR SUB-REGIONAL SHARK MANAGEMENT GROUP—Continued

Region or sub-region	Management group	Quota linkages [1]	Season opening date	Commercial retention limits for directed shark limited access permit holders [2]
	Hammerhead Sharks.			
Eastern Gulf of Mexico	Blacktip Sharks	Not Linked	January 1, 2023	55 LCS other than sandbar sharks per vessel per trip.
	Aggregate Large Coastal Sharks	Linked.		
	Hammerhead Sharks.			
Gulf of Mexico	Non-Blacknose Small Coastal Sharks.	Not Linked	January 1, 2023	N/A.
	Smoothhound Sharks	Not Linked	January 1, 2023	N/A.
Atlantic	Aggregate Large Coastal Sharks	Linked	January 1, 2023	55 LCS other than sandbar sharks per vessel per trip.
	Hammerhead Sharks			
	Non-Blacknose Small Coastal Sharks.	Linked (South of 34 °N lat. Only).	January 1, 2023	N/A.
	Blacknose Sharks (South of 34 ° N lat. Only).			8 blacknose sharks per vessel per trip.[3]
	Smoothhound Sharks	Not Linked	January 1, 2023	N/A.
No Regional Quotas	Non-Sandbar LCS Research	Linked [4]	January 1, 2023	N/A.
	Sandbar Shark Research			
	Blue Sharks	Not Linked	January 1, 2023	N/A.
	Porbeagle Sharks			
	Pelagic Sharks Other Than Porbeagle or Blue.			

[1] Section 635.28(b)(4) lists species and management groups with quotas that are linked. If quotas are linked, when the specified quota threshold for one management group or species is reached and that management group or species is closed, the linked management group or species closes at the same time (§ 635.28(b)(3)).
[2] Inseason adjustments are possible.
[3] Applies to Shark Directed and Shark Incidental permit holders.
[4] Shark research permits ''terms and conditions'' state that when the individual sandbar or research LCS quotas authorized by the permit are landed, all fishing trips under the permit must stop.

Response to Comments

Written comments can be found at *https://www.regulations.gov/* by searching ''NOAA–NMFS–2022–0064.'' Below, NMFS summarizes and responds to the 99 written comments received on the proposed rule during the comment period. The majority of written comments were form letter submissions and are covered by Comment 1. Similar comments are combined, where appropriate.

Comment 1: NMFS received numerous comments regarding the proposed quotas and retention limits. Several commenters opposed the carry-over of quota underharvests to the next fishing year because they believed that shark species must recover from a global increase in fishing pressure and that the carry-over would lead to population decline. Other commenters recommended that the base quotas and retention limits be reduced. Many of these commenters stated that quotas are not fully harvested because there are not enough sharks. Some commenters requested a prohibition on all shark fishing.

Response: The purpose of this action is to adjust the quotas and retention limits and establish the opening date for the 2023 fishing year for Atlantic shark commercial fisheries. This action does not change the regulations and management measures currently in place that govern commercial shark fishing in Federal waters of the northwestern Atlantic Ocean, Gulf of Mexico, and Caribbean Sea.

Consistent with existing regulations at § 635.27(b), unharvested quota may be added to the quota for the next fishing year for shark management groups that have shark stocks that are declared not overfished and not experiencing overfishing. Because the Gulf of Mexico blacktip shark management group and smoothhound shark management groups in the Gulf of Mexico and Atlantic regions are not overfished, and overfishing is not occurring, available underharvest (up to 50 percent of the base annual quota) from the 2022 fishing year for these management groups may be added to their respective 2023 base quotas. NMFS previously determined that the carry-over of quota underharvests (up to 50 percent of the base annual quota) for stocks that are not overfished with no overfishing occurring would not impact the health of the stock (see Amendment 6 and Amendment 9 to the 2006 Consolidated HMS FMP (80 FR 50073, August 18, 2015; 80 FR 73128, November 24, 2015)). NMFS is not carrying forward quota underharvests for any other shark species or management group. Additionally, NMFS is not changing the base quotas or retention limits in this rule.

Furthermore, NMFS is required, under the Magnuson-Stevens Act, to foster the long-term biological and economic sustainability of shark fisheries. The majority of sharks harvested in the United States are species with above-target population levels, and rebuilding plans are in place for all overfished species. While there are several shark species that cannot be retained, the primary objective of this final rule is to adjust the base quotas and retention limits as necessary and consistent with existing regulations at §§ 635.24(a) and 635.27(b). Prohibiting all shark fishing is contrary to that objective and to the requirements of the Magnuson-Stevens Act.

Comment 2: NMFS received a few comments regarding the data used to adjust the quotas and set the retention limits for the 2023 Atlantic shark commercial fishing year. One commenter generically challenged the accuracy of the data. Another commenter urged NMFS to continue research on shark stocks for improved data and informed management measures.

Response: NMFS uses the best scientific information available (BSIA) to effectively manage the Atlantic shark stocks (§ 600.315). In May 2022, NMFS announced the availability of the BSIA Regional Framework (see **ADDRESSES**). As described in the BSIA Regional Framework, NMFS may consider as BSIA the stock assessments resulting from the processes undertaken by the International Commission for the Conservation of Atlantic Tunas and the SouthEast Data Assessment and Review, as well as third-party external stock assessments that are approved for use in management by NMFS. The BSIA Regional Framework also clarifies roles and responsibilities of NMFS and collaborative bodies, and increases transparency in how BSIA determinations are made as part of the management process. All the data and stock assessments referenced in establishing the base quotas and retention limits for this rule are consistent with the BSIA Regional Framework and the Magnuson-Stevens Act.

Furthermore, commercial fishermen with a shark permit must report fishing activities in an approved logbook (§ 635.5(a)(1)). Logbook entries must be species-specific and include weighout slips, among other requirements. Through improved commercial quota monitoring technology and the requirement that Atlantic HMS dealers submit weekly electronic reports on commercial-harvested Atlantic sharks, NMFS actively monitors commercial landings of all shark species and ensures that any necessary inseason management measures, such as fishery closures, occur in an efficient and timely manner. Fishermen or dealers who do not follow the regulations regarding reporting are subject to enforcement action.

Regarding research on shark stocks, NMFS uses recent research in all shark stock assessments. Additionally, NMFS works in conjunction with partners to collect scientific and biological data regarding sharks from a variety of sources, including fishery observers, fishery surveys, and the shark research fishery (§ 635.32(f)). More information on the research and data that are collected every year can be found in the annual Atlantic HMS Stock Assessment and Fishery Evaluation Report (see **ADDRESSES**).

Comment 3: Several commenters stated that this rulemaking is equivalent to a shark cull.

Response: The term ''shark cull'' refers to efforts that are made to deliberately decimate shark populations. Such efforts are contrary to NMFS' mission and the objectives of this rulemaking. NMFS is responsible for managing sustainable commercial and recreational Atlantic shark fisheries consistent with the Magnuson-Stevens Act and other applicable laws. To that end, NMFS established baseline quotas for various Atlantic shark management groups in the 2006 Consolidated HMS FMP and its amendments. These baseline quotas were established to achieve optimum yield and also to prevent overfishing and ensure rebuilding of overfished stocks (§ 600.310). NMFS adjusts these baseline quotas, as needed and as consistent with the regulations, on an annual basis as a result of overharvest or underharvests in previous years. Because these quotas are based on BSIA, NMFS is confident that allowing commercial and recreational shark fishing in 2023 will not cause shark populations to be decimated.

Comment 4: One commenter stated that the quotas do not account for illegal shark harvest.

Response: As described in the BSIA Regional Framework, NMFS continues to use the best scientific information available to manage the shark stocks. This includes the stock assessment review process, which ensures that analyses and data used in the assessments are based on BSIA, scientifically valid and reflective of the current state of each stock or stock complex, and appropriately take into account the HMS risk policy to ensure a 70-percent likelihood of success in ending and preventing overfishing, rebuilding overfished stocks, and maintaining healthy stocks. The likelihood of success within the existing HMS risk policy considers the shark stock and relevant circumstances (*e.g.,* data, unreported landings, fishery changes, and extenuating circumstances). Overall, the HMS risk policy is intended to ensure that the overfishing limit, allowable biological catch, and annual catch limit have buffers and are not exceeded.

NOAA's Office of Law Enforcement is responsible for investigating violations of Federal fishing regulations. Any fisherman or dealer who does not abide by the regulations is subject to potential enforcement action. As noted above, all Federal commercial shark fishermen and shark dealers are required to have permits (§ 635.4(e)), report landings (§ 635.5), and follow other requirements related to shark fishing, as specified in 50 CFR part 635. NMFS closely monitors landing reports on a weekly basis, and communicates frequently with the Office of Law Enforcement to share information about illegal shark fishing. In some instances, NMFS seizes illegally harvested shark product, pursuant to NMFS' authority under the Magnuson-Stevens Act. In those cases, the shark product is reported and counted toward the shark landings for quota monitoring purposes.

Comment 5: NMFS received numerous comments regarding concern for sharks in general. Some commenters expressed concern for what they believe are endangered and threatened shark species or incorrectly stated that endangered species in general were not considered when establishing the quotas. Other commenters noted the negative impacts of shark finning on global shark populations. Some commenters highlighted the importance of sharks to eco-tourism, particularly for snorkeling and diving, and one commenter specifically requested stricter management measures in foreign countries to better support eco-tourism efforts. One commenter stressed the need for marine protected areas while other commenters were concerned about climate change impacts on sharks. A few commenters advocated for improved educational outreach regarding shark species and fisheries, and one commenter requested better fishing regulations. One commenter was concerned about the health risks of consuming shark meat. One commenter incorrectly stated that NMFS supports shark culls through fishing tournaments.

Response: All of these comments are beyond the scope of this rulemaking. The purpose of this action is to adjust the quotas and retention limits and establish the opening date for the 2023 fishing year for Atlantic shark commercial fisheries. This action does not change the base quotas or retention limits, which were established while considering the status of shark stocks and the requirements of the Magnuson-Stevens Act, as described in the proposed rule for this action (87 FR 55379, September 9, 2022). Information about the issues raised in these public comments can be found in the 2006 Consolidated HMS FMP and its amendments, and the annual Stock Assessment and Fishery Evaluation Report (see **ADDRESSESS**).

Classification

NMFS is issuing this rule pursuant to 305(d) of the Magnuson-Stevens Act. Pursuant to Magnuson-Stevens Act section 305(d), this action is necessary to carry out the 2006 Consolidated HMS FMP and its amendments in order to achieve domestic management objectives under the Magnuson-Stevens Act. The NMFS Assistant Administrator has determined that this final rule is consistent with the 2006 Consolidated HMS FMP and its amendments and other applicable law.

This action is exempt from review under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified for the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a final regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

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

Dated: November 7, 2022.

Samuel D. Rauch, III,

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

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