

**Authority:** 42 U.S.C. 7401 *et seq.*

**Dated:** September 21, 2007.

**Alan J. Steinberg,**

*Regional Administrator, Region 2.*

[FR Doc. E7-19346 Filed 9-28-07; 8:45 am]

**BILLING CODE** 6560-50-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### 42 CFR Part 71

**RIN 0920-AA03**

#### Foreign Quarantine Regulations, Proposed Revision of HHS/CDC Animal-Importation Regulations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Advance notice of proposed rulemaking; extension of public comment period.

**SUMMARY:** On July 31, 2007, CDC published an advanced notice of proposed rulemaking (ANPRM), "Foreign Quarantine regulations, Proposed Revision of HHS/CDC Animal-Importation Regulations," (72 FR 41676) to begin the process of revising HHS/CDC Animal Importation Regulations that cover dogs and cats (42 CFR 71.51), and to consider extending these regulations to cover domesticated ferrets. The ANPRM will also address the importation of African rodents (42 CFR 71.56) into the United States. HHS/CDC is also considering the need for additional regulations to prevent the introduction of zoonotic diseases into the United States. CDC provided a 60-day public comment period, with written comments to be received on or before October 1, 2007. CDC has received requests asking for an extension of the comment period. In consideration of these requests, CDC is extending the comment period an additional 60 days, with a new closing date of December 1, 2007.

**DATES:** Written comments on the advance notice of proposed revision of HHS/CDC Animal Importation Regulations must be submitted on or before December 1, 2007. Please refer to **SUPPLEMENTARY INFORMATION** for additional information.

**ADDRESSES:** Written comments may be submitted to the following address: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Division of Global Migration and Quarantine, ATTN:

Animal Importation Regulations, 1600 Clifton Road, NE., (E03), Atlanta, GA 30333. Comments will be available for public inspection Monday through Friday, except for legal holidays, from 9 a.m. until 5 p.m. at 1600 Clifton Road, NE., Atlanta, GA 30333. Please call ahead to 1-866-694-4867 and ask for a representative in the Division of Global Migration and Quarantine to schedule your visit.

Written comments may also be submitted electronically via the Internet at <http://www.regulations.gov> or via e-mail to [animalimportcomments@cdc.gov](mailto:animalimportcomments@cdc.gov). Electronic comments may be viewed at <http://www.cdc.gov/publiccomments/>.

An electronic copy of the rule can be found at: <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Robert Mullan, M.D., Centers for Disease Control and Prevention, Division of Global Migration and Quarantine, (404) 639-4537.

**SUPPLEMENTARY INFORMATION:** On July 31, 2007, CDC published an advanced notice of proposed rulemaking (ANPRM), "Foreign Quarantine Regulations, Proposed Revision of HHS/CDC Animal-Importation Regulations" (72 FR 41676). In that **Federal Register** Notice, CDC provided a 60-day public comment period. Written comments were to be received on or before October 1, 2007. Since the Notice was published, CDC has received requests asking for an extension of the public comment period beyond the 60 days originally provided. These requests have been made by national groups that represent organizations that will be affected by the proposed rule. In consideration of these concerns, CDC is extending the comment period by 60 days (until December 1, 2007) to give all interested organizations and persons the opportunity to comment fully.

Commenters should be aware that CDC's general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet as they are received and without change, including any personal identifiers or contact information.

CDC has posted the ANPRM and related materials on its Web site at <http://www.cdc.gov/ncidod.dq>.

**Dated:** September 20, 2007.

**Michael O. Leavitt,**  
*Secretary.*

[FR Doc. 07-4852 Filed 9-27-07; 12:07 pm]

**BILLING CODE** 4163-18-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 070803437-7439-01]

**RIN 0648-AV93**

#### Atlantic Highly Migratory Species; Atlantic Commercial Shark Management Measures

**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 the 2008 first trimester season quotas for large coastal sharks (LCS), small coastal sharks (SCS), and pelagic sharks based on over- or underharvests from the 2007 first trimester season. This proposed action would provide advance notice of quotas and season dates for the Atlantic commercial shark fishery. It would also ensure the measures in this action are in place until they are replaced by those implemented under Amendment 2 to the Highly Migratory Species (HMS) Fisheries Management Plan (FMP) even if Amendment 2 is finalized after the start of the second trimester season (May 1, 2008). As such, this action constitutes the regulatory action to determine quotas and season lengths for LCS, SCS and pelagic sharks for the 2008 second trimester season.

**DATES:** Comments on this proposed rule may be submitted at the public hearing (oral or written), via email, mail, or fax by October 31, 2007.

A public hearing will be held from 7-9 p.m. on October 3, 2007.

**ADDRESSES:** You may submit comments, identified by [0648-AV93], by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>

- Fax: 301-713-1917, Attn:[LeAnn Southward Hogan]

- Mail: 1315 East West Highway, Silver Spring, MD 20910

Please mark on the outside of the envelope "Comments on Proposed Rule for 2008 First Trimester Season Lengths and Quotas".

**Instructions:** All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for

example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

The hearing location will be held at the NOAA Science Center, 1305 East West Highway, Silver Spring, MD 20910.

Copies of the draft Environmental Assessment (EA) and other relevant documents are available from the HMS website <http://www.nmfs.noaa.gov/sfa/hms/> or by contacting LeAnn Southward Hogan (see **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:**

LeAnn Southward Hogan or Karyl Brewster-Geisz by phone: 301-713-2347 or by fax: 301-713-1917.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Atlantic shark fishery is managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NMFS recently finalized a Consolidated Atlantic HMS FMP that consolidated and replaced previous FMPs for Atlantic Billfish, and Atlantic Tunas, Swordfish, and Sharks. The HMS FMP is implemented by regulations at 50 CFR part 635.

Currently, the Atlantic shark annual quotas, with the exception of pelagic sharks, are split among three regions based on historic landings (1999 -2003). Consistent with 50 CFR 635.27(b)(1)(iii) and (iv), the annual LCS quota (1,017 mt dw) is split among the three regions as follows: 52 percent to the Gulf of Mexico, 41 percent to the South Atlantic, and 7 percent to the North Atlantic. The annual SCS quota (454 mt dw) is split among the three regions as

follows: 48 percent to the Gulf of Mexico, 49 percent to the South Atlantic, and 3 percent to the North Atlantic. The regional quotas for LCS and SCS are divided equally between the trimester seasons in the South Atlantic and the Gulf of Mexico, and according to historical landings in the North Atlantic.

Consistent with 50 CFR 635.27(b)(1)(vi), any over- or underharvest in a given region from the 2007 first trimester season will be carried over to the 2008 first trimester season in that region.

**2007 First Trimester Landings**

Shark landings data for the 2007 first trimester season are provided in Table 1. As a result of the over- and underharvests that occurred in the first trimester season of 2007, NMFS analyzed alternatives to adjust the 2008 first trimester season and quotas for the LCS and SCS fishery.

TABLE 1—LANDINGS IN METRIC TONS DRESSED WEIGHT (MT DW) FOR THE 1<sup>ST</sup> TRIMESTER SEASON OF 2007. LANDINGS ESTIMATES ARE BASED ON DEALER REPORTS RECEIVED AS OF JULY 31, 2007.

First Trimester Season 2007				
Species Group (Annual Quota, mt dw)	Region (Allocation)	Quota (mt dw)	Estimated Landings (mt dw)	Percent Quota Taken
Large Coastal Sharks (1,017)	Gulf of Mexico (52 %)	62.3	187.4	300
	South Atlantic (41 %)	-112.9	9.7	—
	North Atlantic (7 %)	7.9	0	0
Small Coastal Sharks (454)	Gulf of Mexico (10 %)	15.1	14.5	96
	South Atlantic (87 %)	308.4	27.6	9
	North Atlantic (3 %)	18.8	0	0
Blue Sharks (273)	No regional quotas	91	0	0
Porbeagle sharks (92)		30.7	0.1	0.3
Pelagic Sharks other than those above (488)		162.7	30.6	18.8

**Quota Adjustments in the LCS and SCS Fishery**

NMFS conducted an Environmental Assessment (EA) to analyze three LCS and SCS alternatives for adjusting regional trimester quotas and other management measures based on the over- and underharvests that occurred in the LCS and SCS fisheries in the North Atlantic, South Atlantic and Gulf of Mexico regions during the 2007 first trimester season.

These measures are necessary to ensure that over- and underharvests from 2007 are accounted for and any impacts are analyzed. The base quotas

established in Amendment 1 to the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks and maintained in the Consolidated HMS FMP would not be affected by this rulemaking. Rather, the LCS base quotas would be changed via the final Amendment 2 to the Consolidated HMS FMP and its final rule. Based on the 2005 Canadian porbeagle stock assessment, the 2006 dusky shark stock assessment and the 2005/2006 LCS stock assessment, NMFS has determined that a number of shark species are overfished and overfishing is occurring and an amendment to the HMS FMP is needed to implement

management measures to rebuild overfished stocks and prevent overfishing. The management measures proposed in the draft Amendment 2 to the HMS FMP would reduce fishing effort and mortality to rebuild overfished Atlantic shark species while ensuring that a limited shark fishery can be maintained. The final Amendment 2 to the HMS FMP is expected to be published in late winter or early spring 2008.

### LCS Quota Adjustments and Fishing Season Notification

Consistent with 50 CFR 635.27(b)(1)(vi)(A)(3), the LCS quota for the Gulf of Mexico and South Atlantic regions is split equally (33.3 percent/season) between the three trimester fishing seasons, and the quota for the North Atlantic is split according to historical landings of 4, 88, and 8 percent for the first, second, and third trimester seasons, respectively. Due to LCS overharvests that occurred in both the Gulf of Mexico and South Atlantic regions during the first trimesters of 2006 and 2007, the LCS quotas for these regions and season have been significantly reduced from the baseline quotas. Table 2 describes the adjusted LCS quotas based on the 2007 first trimester overharvests.

Under alternative 1 (no action) the Gulf of Mexico region would have a quota of 51 mt dw (112,435 lb dw) and would have a five day season, and the North Atlantic region would have a quota of 10.7 mt dw (23,589 lb dw) and would be open for the entire first season of 2008. The South Atlantic region would have a quota of 16.3 mt dw (35,935 lb dw). However, based upon historical (2004–2007) average catch rates and landings that occurred during federal closures during the first trimester, 96.9 percent of the quota would be harvested if the season was open for one day. Therefore, due to safety at sea concerns and possible derby fishing conditions, the LCS fishery in the South Atlantic region would be closed for the 2008 first trimester season under the no action alternative.

Under alternative 3 (the preferred alternative), NMFS would close the LCS fishery in the Gulf of Mexico, South Atlantic, and North Atlantic regions during the 2008 first trimester season until Amendment 2 to the HMS FMP is effective. Closing the LCS fishery during the 2008 first trimester season would be the second consecutive year that NMFS closed the LCS fishery in the South Atlantic region during the first trimester. As a result, the South Atlantic region commercial LCS fishermen would continue to experience negative social and economic impacts associated with these management measures.

A closure in the Gulf of Mexico region could avoid safety at sea concerns and possible derby fishing condition that may occur as a result of the five day season (no action alternative).

In the North Atlantic region from 2004–2007 an average of 0.4 mt dw was landed during the entire first trimester season. Thus, due to the historically

small landings in this region during the first trimester, NMFS does not expect that the North Atlantic region would be negatively impacted from a LCS closure in this region during the 2008 first trimester.

The preferred LCS management measures that are finalized in this action would be in place from January 1, 2008, until Amendment 2 to the Consolidated HMS FMP is finalized and effective even if that date is after the end of the 2008 first trimester season on April 30th. The preferred alternative would provide positive ecological benefits by eliminating directed fishing effort and possession of LCS in any region. Eliminating this directed fishery from all regions would provide the most ecological benefits to overfished sandbar and dusky shark populations and reduce fishing pressure on other LCS species, relative to Alternative 1 (no action). Positive ecological impacts would result from these closures for incidental and protected species, particularly for sea turtles as 64 percent of annual sea turtles interactions occur in the BLL fishery between January and April. Therefore, the ecological benefits of keeping the LCS fishery closed in all regions until Amendment 2 to the HMS FMP is effective may outweigh the potential economic impacts associated with the closure.

Furthermore, the LCS quotas for the 2007 merged second and third seasons in the Gulf of Mexico and South Atlantic regions are 83.1 mt dw and 163.70 mt dw, respectively. The LCS quota for the second season in the North Atlantic region is 69 mt dw. As of July 31, 2007, preliminary landings data from federal dealers indicate that there were 144.6 mt dw landed in the Gulf of Mexico despite a season that begins on September 1 and closes on September 22, 2007. These landings have exceeded the federal quota of 83.1 mt dw and can be primarily attributed to landings of sharks caught in state waters and sold to federal dealers. In the South Atlantic region, the LCS season was open from July 15 through August 15, 2007. As of July 31, 2007, there were 35.8 mt dw of LCS landed and reported by federal dealers. In the North Atlantic region, there were 74.8 mt dw landed which exceeds the federal quota of 69 mt dw. As federal dealer reports continue to be submitted in each region and the LCS season in the Gulf of Mexico is open from September 1–22, 2007, it is likely there will be extensive overharvests of LCS in the 2007 second and third seasons. Under current regulations, any over- or underharvest that occurs in the 2007 second and third trimester season would need to be taken into account

during the 2008 second trimester season. However, as mentioned above, the LCS closure in each region resulting from this proposed rule would remain effective until Amendment 2 to the HMS FMP is finalized and effective. There would be no additional regulatory action to determine LCS quotas and season lengths for the 2008 second trimester season.

Besides the no action alternative (alternative 1) and the preferred alternative (alternative 3), NMFS also considered alternative 2, which would combine the regions into one region. Under this alternative, the quota would be 78 mt dw for this one region and the season would be open for six days. NMFS did not prefer this alternative because negative consequences of establishing a single region combined with a substantially shortened season might include derby-style fishing and safety at sea concerns, as well as decreased fishing efficiency with resulting decreased survival rates for bycatch. Additionally, negative ecological impacts to overfished shark species could occur if all regions were combined and opened for a short time period as proposed under this alternative.

### SCS Quota Adjustments and Season Notification

Consistent with 50 CFR 635.27(b)(1)(iv), the annual SCS quota (454 mt dw) is split among the regions as follows: 48 percent to the Gulf of Mexico region, 49 percent to the South Atlantic region and 3 percent to the North Atlantic region. Also consistent with 50 CFR 635.27 (b)(1)(vi)(A)(3), the SCS quota for the Gulf of Mexico and South Atlantic regions is further split equally (33.3 percent/season) between the three trimester fishing seasons in each of the regions, and the quota for the North Atlantic is further split of 4, 88 and 8 percent for the first, second, and third trimester seasons, respectively.

There were no overharvests of SCS in any region during the 2007 first trimester season. Under the current regulations, the SCS 2008 first trimester season quotas would be 354.9 mt dw (782,413 lb dw) in the South Atlantic region, 73.2 mt dw (161,377 lb dw) in the Gulf of Mexico region, and 19.3 mt dw (42,549 lb dw) in the North Atlantic region. The SCS season would open on January 1, 2008 and would close when quotas are projected to be reached with a notification filed at the Office of the Federal Register by the Assistant Administrator (AA), consistent with 50 CFR 635.28(b)(2). Table 2 describes the proposed adjusted quotas and seasons

for SCS for the various regions for the 2008 first trimester season adjusted for underharvests that occurred during the 2007 first trimester season (Table 1).

If Amendment 2 to the HMS FMP is not final and effective by the start of the 2008 second trimester season, the SCS fishery would open on May 1, 2008, with the baseline quotas of 12 mt dw in the North Atlantic region, 74.1 mt dw in the South Atlantic region, and 72.6 mt dw in the Gulf of Mexico region.

#### Pelagic Shark Quota Adjustments and Season Notification

Existing regulations do not allow underharvests of pelagic sharks to be carried forward to the next fishing management period. As of July 31, 2007, approximately 30.7 mt dw were reported landed in the 2007 first trimester fishing season in total for pelagic, blue, and porbeagle sharks combined. Thus, the pelagic shark quota does not need to be reduced consistent with the current regulations 50 CFR 635.27(b)(1)(vi)(B). The 2008 first trimester season quotas for pelagic, blue,

and porbeagle sharks are proposed to be 162.7 mt dw (358,688 lb dw), 91 mt dw (200,619 lb dw), and 30.7 mt dw (67,681 lb dw), respectively (Table 2). The pelagic shark season would open on January 1, 2008 and would close when quotas are projected to be reached with a notification filed at the Office of the Federal Register by the AA, consistent with 50 CFR 635.28(b)(2). If Amendment 2 to the HMS FMP is not final and effective by the start of the 2008 second trimester, the pelagic shark fishery would open on May 1, 2008, with the baseline quotas.

TABLE 2. SEASONS AND QUOTAS FOR LCS, SCS AND PELAGIC SHARKS FOR THE FIRST TRIMESTER OF 2008. ALL QUOTAS AND LANDINGS ARE IN METRIC TONS, DRESSED WEIGHT.

Species Group (Annual Quota)	Region (Allocation)	Base Tri. Quota	2007 1 <sup>st</sup> Tri. Quota	2007 1 <sup>st</sup> Tri. Landings	+/- Under/Over Harvest	2008 Adjusted Quota	Proposed Season
Large Coastal Sharks (1,017)	Gulf of Mexico (52 %)	176.1	62.3	187.4	-125.1	51 (112,435 lb dw)	CLOSED
	South Atlantic (41 %)	138.9	-112.9	9.7	-122.6	16.3 (35,935 lb dw)	CLOSED
	North Atlantic (7 %)	2.8	7.9	0	+7.9	10.7 (23,589 lb dw)	CLOSED
Small Coastal Sharks (454)	Gulf of Mexico (48 %)	72.6	15.1	14.5	+0.6	73.2 (161,377 lb dw)	Jan. 1, 2008 - To be determined
	South Atlantic (49 %)	74.1	308.4	27.6	+280.8	354.9 (782,413 lb dw)	
	North Atlantic (3 %)	.54	18.8	0	+18.8	19.3 (42,549 lb dw)	
Blue Sharks (273)	No regional quotas	91.0	30.7	91.0	Not applicable	91.0 (200,618 lb dw)	Jan. 1, 2008 - To be determined
Porbeagle sharks (92)		30.7		30.7		30.7 (67,681 lb dw)	
Pelagic Sharks other than Porbeagle or blue (488)		162.7		162.7		162.7 (358,688 lb dw)	

#### Request for Comments

Comments on this proposed rule may be submitted at the public hearing (oral or written), via email, mail, or fax until October 31, 2007. NMFS will hold one public hearing (see **DATES** and **ADDRESSES**) to receive comments from fishery participants and other members of the public regarding this proposed rule. This hearing will be physically accessible to people with disabilities. Request for sign language interpretation

or other auxiliary aids should be directed to LeAnn Southward Hogan at (301) 713-2347 prior to the hearing date. The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each meeting, a representative of NMFS will explain the ground rules (e.g., alcohol is prohibited from the hearing room; attendees will be called to give their comments in the order in which they register to speak; and the attendees

should not interrupt one another). The NMFS representative will attempt to structure the meeting so that all attending members of the public will be able to comment, if they so choose. Attendees are expected to respect the ground rules, and, if they do not, they will be asked to leave the meeting. For individuals unable to attend a hearing, NMFS also solicits written comments on this proposed rule (see **DATES** and **ADDRESSES**).

## Classification

NMFS has preliminarily determined that this action is consistent with section 304(b)(1) of the Magnuson-Stevens Act, including the National Standards, and other applicable law.

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

In compliance with Section 603 of the Regulatory Flexibility Act, an Initial Regulatory Flexibility Analysis was prepared for this rule. The IRFA analyzes the anticipated economic impacts of the preferred actions and any significant alternatives to the proposed rule that could minimize economic impacts on small entities. A summary of the IRFA is below. The full IRFA and analysis of economic and ecological impacts, are available from NMFS (see **ADDRESSES**).

In compliance with section 603(b)(1) of the Regulatory Flexibility Act, the purpose of this proposed rulemaking is, consistent with the Magnuson-Stevens Act, to adjust the LCS and SCS regional and trimester quotas and propose season lengths for LCS, SCS, and pelagic sharks for the first trimester of 2008 based on under- and overharvests that occurred during the first trimester of 2007. This rule does not change the overall annual base quotas.

In compliance with section 603(b)(2) of the Regulatory Flexibility Act, the objective of the proposed rulemaking is, to ensure that the season lengths and quotas for the first trimester of 2008 for LCS, SCS, and pelagic sharks are in place by January 1, 2008, and remain effective until Amendment 2 of the HMS FMP is effective. There will be no regulatory action to determine quotas and season lengths for LCS, SCS and pelagic sharks for the 2008 second trimester season even if Amendment 2 is finalized after May 1, 2008, the start of the second trimester season.

Section 603(b)(3) requires Agencies to provide an estimate of the number of small entities to which the rule would apply. This rule could directly affect commercial shark fishermen on the Atlantic Ocean in the United States. There are approximately 529 (231 directed and 298 incidental) shark permit holders. Additionally, approximately 269 commercial shark dealers could be indirectly affected by this proposed rule. All of these permit holders and dealers are considered small entities according to the Small Business Administration's standard for defining a small entity. Other small entities involved in HMS fisheries such as processors, bait houses, and gear

manufacturers might also be indirectly affected by the proposed regulations.

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)).

One of the requirements of an IRFA, under Section 603 of the Regulatory Flexibility Act, is to describe any alternatives to the proposed rule that accomplish the stated objectives and that minimize any significant economic impacts (5 U.S.C. 603(c)). Additionally, the Regulatory Flexibility Act (5 U.S.C. 603 (c)(1) through (4)) lists four categories for alternatives that must be considered. These categories 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 for small entities.

In order to meet the objectives of this proposed rule, consistent with Magnuson-Stevens Act, NMFS cannot exempt small entities or change the reporting requirements only for small entities. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. In addition, none of the alternatives considered would result in additional reporting or compliance requirements (category two 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. As described below, NMFS analyzed three different alternatives in this proposed rulemaking and provides justification for selection of the preferred alternative to achieve the desired objective.

The alternatives included: maintain existing procedures for LCS and SCS quota management (alternative 1, No Action), combine the LCS regions and quotas and maintain status quo for SCS (alternative 2), and close all regions to LCS fishing during the 2008 first trimester season until Amendment 2 to the HMS FMP effective and maintain modified status quo for SCS (alternative 3, preferred).

Alternative 1 is considered the no action alternative since it would maintain existing procedures for addressing regional trimester over- and

underharvests of LCS and SCS when establishing the regional quotas and seasons for the first trimester season of 2008. This alternative is not preferred in part because it could result in negative ecological impacts for LCS compared to the preferred alternative. The unexpected magnitude of the 2006 first trimester overharvest would result in no commercial fishing for LCS in the South Atlantic region during the first trimester of 2008 for the second consecutive year since the available adjusted quota of 16.3 mt dw would be taken in approximately one day.

If not for the overharvests in 2006 and 2007, the LCS 2008 first trimester base quota allocation would have been 138.9 mt dw in the South Atlantic region. Instead, the adjusted quota under the no action alternative would be 16.3 mt dw, which is 122.6 mt dw less than it would have been under the base quota allocation. However, 112.9 mt dw of the 122.6 mt dw total overharvest was carried over from the 2006 first trimester overharvest. Despite a closure in the South Atlantic region during the 2007 first trimester season, 9.7 mt dw was landed by fishermen fishing in state waters. The 9.7 mt dw, when added to the 112.9 mt dw 2006 overharvest quota equals 122.6 mt dw of overharvest that must be accounted for during the 2008 first trimester. Because of the small 2008 adjusted quota, no fishing season is feasible due to safety at sea concerns and potential derby fishing conditions. Based on the ex-vessel prices per pound dw by region in 2006 of \$0.46 per pound dw of LCS flesh and \$16.20 per pound for shark fins in the South Atlantic region, the value of the 122.6 mt dw reduction from the baseline quota allocation is approximately \$53,576 for LCS flesh (95 percent of the quota weight) and \$99,306 for shark fins (based on the 5 percent shark fin to carcass ratio). Therefore, the total 2006 and 2007 overharvest is estimated to have a direct revenue impact on the South Atlantic regional commercial shark fishery of approximately \$152,882. Based on the ex-vessel prices listed above for LCS flesh and fins, the overharvest of 9.7 mt dw from the first trimester of 2007 is approximately \$12,096. Based on the January catch rates and the amount of quota taken during federal closures, the available quota for 2008 is 16.3 mt dw, which would likely be taken in one day. Therefore, the South Atlantic region would be closed during the 2008 first trimester season. In addition to the lost revenue from the 2006 and 2007 overharvests, the closure would lead to an additional loss in revenue of

approximately \$7,121 for LCS flesh (95 percent of the 16.3 mt dw) and \$13,122 for shark fins (based on the 5 percent shark fin to carcass ratio). Therefore, a closure during the 2008 first trimester season in the South Atlantic region for two consecutive years would result in continued disrupted revenue flows and negative economic impacts.

If not for the 125.1 mt dw overharvest in the first trimester of 2007 in the Gulf of Mexico region, the 2008 first trimester available quota would have been 176.1 mt of LCS in the Gulf of Mexico region. Due to this overharvest, the adjusted LCS quota is 51 mt dw in the Gulf of Mexico region. To estimate the value of changes in revenues from the 2008 available quota, the actual ex-vessel prices received for 2006 were available, those prices were used to calculate the "extra" revenues generated from the overharvest in the first trimester of 2007. Based on the ex-vessel prices per pound dw by region in 2006 of \$0.47 per pound dressed weight of LCS flesh and \$20.65 per pound for shark fins in the Gulf of Mexico region, the value of the 125.1 mt dw reduction from the baseline quota allocation is approximately \$55,855 for LCS flesh (95 percent of the quota weight) and \$129,166 for shark fins (based on the 5 percent shark fin to carcass ratio). Therefore, the 2007 first trimester overharvest is estimated to have a direct revenue impact on the Gulf of Mexico regional commercial shark fishery of approximately \$185,021. However, the 125.1 mt dw overharvest was primarily due to landings from fishermen fishing in state waters. As such, federal fishermen did not benefit from the overharvest in the 2007 first trimester season. With a 2008 adjusted quota of 51 mt dw, the Gulf of Mexico region would have a short season that would last for five days. Using the ex-vessel prices as above for the Gulf of Mexico region, the value of this 51 mt dw adjusted quota for the first trimester of 2008 is approximately \$22,772 for LCS flesh (95 percent of the quota weight) and \$52,658 for shark fins (based on the 5 percent shark fin to carcass ratio). Therefore the estimated revenue for the 2008 first trimester season would be approximately \$75,430. While there may be slight positive economic impacts as a result of a limited LCS season in the Gulf of Mexico coupled with a South Atlantic LCS closure causing prices to increase, the intense fishing period may also cause a temporary glut in the market for that period of time for shark products. It could also lead to less efficient fishing operations that may reduce the quality of the shark products

landed causing a reduction in ex-vessel prices of shark products. Overall, the small amount of LCS quota available and short season would result in negative economic impacts in the Gulf of Mexico region.

The LCS quota in the North Atlantic region for the first trimester season of 2008 would be 10.7 mt dw. The ex-vessel prices only provide the value of LCS flesh in the North Atlantic region and not the value for shark fins, therefore an average of \$18.43 was taken of the ex-vessel price for shark fins in the South Atlantic and Gulf of Mexico regions to calculate approximate revenue from the available quota. The approximate value of the 10.7 mt dw quota allocation for the 2008 first trimester season in the North Atlantic region would be \$13,415.

Overall, the negative economic impact of the reduced LCS quota for the Gulf of Mexico region would result in \$75,430 in reduced revenues for the first trimester of 2008. Due to the LCS closure in the South Atlantic region, a negative economic impact totaling \$20,243 in lost revenues would occur. There were extra revenues received worth \$337,903 as a result of the extensive LCS overharvests in the South Atlantic and Gulf of Mexico regions. Since a majority of these overharvest landings were from state landings, particularly in the Gulf of Mexico region, many federal fishermen did not benefit from this overharvest revenue. Some of the impacts from these reduced revenues might be mitigated somewhat for vessels that can fish for SCS and pelagic sharks or in other HMS and non-HMS fisheries. However, these opportunities would likely be limited and result in additional costs associated with adjusting current fishing practices.

With regards to SCS, alternative 1 would maintain existing procedures for addressing regional trimester over- and underharvests for SCS when establishing the regional quotas and seasons for the first trimesters of 2008. There were no overharvests of SCS in any region during the 2007 first trimester season. No change in economic impacts would be realized in the North Atlantic, South Atlantic, and Gulf of Mexico regions since these regions would be open, with ample quota, during the first trimester of 2008 under the no action alternative. Based on the ex-vessel price per pound per of SCS in the North Atlantic, South Atlantic, and Gulf of Mexico regions potential revenue for flesh would be \$0.43, \$0.55, and \$0.53, respectively. Potential revenue from SCS may help offset lost revenue in the LCS fishery due to short seasons and a closure.

NMFS does not prefer the no action alternative because the substantially shortened LCS season in the Gulf of Mexico region might lead to derby-style fishing and safety at sea concerns as well as decreased fishing efficiency with resulting decreased survival rates for bycatch. If the Gulf of Mexico region was open for five days as proposed under the no action alternative, overfishing could continue to occur leading to negative ecological impacts to shark species that are overfished.

Alternative 2 would combine the North Atlantic, South Atlantic and Gulf of Mexico regions for the LCS fishery into one region. The adjusted quota for the one LCS region would be 78 mt dw, which is 239.8 mt dw less than the base quota allocation in each region added together (317.8 mt dw). Based on total ex-vessel annual revenues in 2005 (Table 6.3) of \$0.48 per pound dress weight of flesh and \$17.94 per pound of shark fins in all regions combined, the value of the 239.8 mt dw reduction from the baseline quota allocation in all the regions is approximately \$109,349 for LCS flesh (95 percent of the quota weight) and \$215,101 for shark fins (based on the 5 percent shark fin to carcass ratio). Therefore, the 2007 first trimester overharvest in the South Atlantic and Gulf of Mexico regions is estimated to have a direct revenue impact on the LCS commercial fishery, when combining the regions, of approximately \$324,450. The value of the 78 mt dw combined quota that would allow the season to be open for six days is approximately \$35,568 for LCS flesh (95 percent of the quota weight) and \$69,966 for shark fins (based on the 5 percent shark fin to carcass ratio). Therefore, the estimated revenue for the LCS 2008 first trimester season under alternative 2, with all regions combined would be approximately \$105,534. Derby style fishing conditions and safety at sea concerns may occur through the shortened season causing negative social impacts. The six day season may cause a temporary glut in the market and therefore a reduction in the ex-vessel price of shark products or less efficient fishing operations thus reducing the quality of the shark products landed. Under these conditions, it is likely the estimated revenue for all regions would be less than \$105,534. Combining the regions would likely have negative economic impacts on regions that do not have sharks present year round. The North Atlantic region may be disadvantaged as a result of combining the three regions into one region. Dealers in all regions,

but particularly in the North Atlantic region, would also be affected, possibly even more so than vessels, as the likelihood of having shark products consistently would be decreased. Overall, negative economic impacts would result from the small amount of LCS quota available and the short season in all regions. Under alternative 2, the SCS fishery would remain the same as in the no action alternative and no adverse economic impacts are expected since these regions would be open, with ample quota, throughout the entire first trimester of 2008.

NMFS did not prefer this alternative because negative consequences of establishing a single region combined with a substantially shortened season might include derby-style fishing and safety at sea concerns as well as decreased fishing efficiency with resulting decreased survival rates for bycatch. Additionally, negative ecological impacts to overfished shark species could occur if all regions were combined and opened for a short time period as proposed under Alternative 2.

Alternative 3, the preferred alternative would close the LCS fishery in all regions until Amendment 2 to the HMS FMP is effective. The SCS fishery would be open in all three regions on January 1, 2008, and no adverse economic impacts are expected since these regions would be open, with ample quota, throughout the first trimester of 2008. Under this alternative, the North Atlantic, South Atlantic, and Gulf of Mexico regions would be closed to LCS fishing for entire first trimester season and possibly longer depending on when Amendment 2 becomes effective. However, under the no action alternative, the South Atlantic region would be closed during the 2008 first trimester and the Gulf of Mexico region would only be open for five days starting January 1. The North Atlantic region would be open for the entire 2008 first trimester season (although, from 2004–2007 only an average of 0.4 mt dw was landed in this region during the entire first trimester season).

Because LCS are not typically in the North Atlantic region during the first trimester and due to the small landings in this region during the first trimester, it is not expected that the North Atlantic would benefit economically from the 10.7 mt dw of quota available for the 2008 first trimester. Therefore, closing all three regions as proposed in the preferred alternative would not have a much greater economic impact than the no action alternative. The estimated revenue from the 51 mt dw quota in the Gulf of Mexico for the 2008 first trimester season under alternative 1, would be approximately \$75,430, which would be the approximate revenue lost due to all regions being closed to LCS fishing during the 2008 first trimester season. The South Atlantic region would also experience economic impacts associated with this alternative, however, these impacts would not be different from those described in the no action alternative. Atlantic shark fishermen may pursue other options as a result of closing the LCS fishery for the 2008 first trimester including transferring fishing effort to other fisheries for which they are permitted, acquiring new permits to participate in other fisheries or relinquishing their permits and leaving the fishing industry.

NMFS prefers this alternative because overall, the ecological benefits of keeping the LCS fishery closed in all regions until Amendment 2 to the HMS FMP is effective may outweigh the economic impacts associated with the closure due to the overfished status of sandbar and dusky sharks. The LCS closure would also provide positive ecological benefits to other shark species, along with any incidental and protected species.

#### List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: September 25, 2007.

**William T. Hogarth**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

For reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

#### **PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES**

1. The authority citation for part 635 continues to read as follows:

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

2. In § 635.27, paragraphs (b)(1)(i) and (b)(1)(vi)(A) introductory text are revised to read as follows:

#### **§ 635.27 Quotas.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(i) *Fishing seasons.* The commercial quotas for large coastal sharks, small coastal sharks, and pelagic sharks will be split among three fishing seasons: January 1 through April 30, May 1 through August 31, and September 1 through December 31. NMFS may consider merging or closing any of the fishing seasons pursuant to paragraph (b)(1)(vi) of this section.

\* \* \* \* \*

(vi) *Annual adjustments.* (A) NMFS will adjust the next year(s) fishing season quotas for large coastal, small coastal, and pelagic sharks to reflect actual landings during any fishing season in any particular region. For example, a commercial quota underharvest or overharvest in the fishing season in one region that begins January 1 will result in an equivalent increase or decrease in the following year(s) quota for that region for the fishing season that begins January 1. NMFS may consider merging or closing any of the fishing seasons and relevant quotas in any region when there is limited available quota in one or more seasons.

\* \* \* \* \*

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