NMFS Announces the Availability of the Proposed Rule to Implement Amendment 9 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan

August 7, 2014

The proposed rule to implement draft Amendment 9 to the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP) is now available. This Amendment considers management measures in the shark fisheries and could affect fishermen who fish for smoothhound sharks (e.g., smooth dogfish, Florida smoothhound, and Gulf smoothhound) and fishermen who fish for sharks with gillnet gear.

What will it do?
The full range of alternatives considered are included in the draft environmental assessment and proposed rule, which can be found at the HMS website at: [http://www.nmfs.noaa.gov/sfa/hms/](http://www.nmfs.noaa.gov/sfa/hms/). The preferred alternatives are described below.

1) Establishing an Effective Date for Previously-Adopted Smoothhound Shark Management Measures Finalized in Amendment 3 to the 2006 Consolidated HMS FMP and in the 2011 HMS Trawl Rule

This action would implement an effective date for the previously-delayed management measures for smoothhound sharks, including:

- A research set-aside quota;
- An accountability measure, which closes the fishery when smoothhound shark landings reach, or are expected to reach, 80 percent of the quota to ensure the total quota is not exceeded;
- A requirement for a dealer to obtain a permit to purchase smoothhound sharks;
- A requirement for dealers to report smoothhound shark purchases;
- A smoothhound permit requirement for commercial and recreational fishing and retention;
- A requirement for vessels fishing for smoothhound sharks to carry an observer, if NMFS selects them;
- A requirement for vessels fishing for smoothhound sharks to comply with applicable Take Reduction Plans pursuant to the Marine Mammal Protection Act;
- A requirement for commercial vessels to sell catch only to federally-permitted shark dealers; and
- Retention of smoothhound sharks caught incidentally with trawl gear, provided that total smoothhound shark catch on board or offloaded does not exceed 25 percent of the total catch by weigh.

2) Adjusting the Commercial Quota for the Smoothhound Shark Fishery

Since publishing Amendment 3 in 2010, NMFS has received updated reported landings data from the Atlantic Coastal Cooperative Statistics Program (ACCSP) that warrants increasing the commercial...
quota established in Amendment 3. This action proposes a smoothhound commercial quota of 1,739.9 mt dw, which is equal to the maximum annual landings from the 10 most recent years available at this time (i.e., 2004-2013) plus two standard deviations.


In the Shark Conservation Act of 2010 (SCA), Congress provided a limited exception to the “fins-attached” requirements specifically for smooth dogfish. To implement the smooth dogfish-specific provisions of the SCA, this proposed rule considers three issues: catch composition, state permit requirements, and geographic applicability of the exception. If federally-permitted shark fishermen do not qualify for this exception under the SCA, they will be required to land smooth dogfish with the fins naturally attached. Under this proposed rule, in order to remove fins from smooth dogfish at sea per the SCA, fishermen would need to meet the requirements in the preferred sub-alternatives listed below:

- 75 percent of retained catch on board the vessel would have to be smooth dogfish. No other species of sharks could be onboard the vessel;
- Federally-permitted smooth dogfish fishermen would have to also possess a State commercial fishing license that allows fishing for smooth dogfish; and
- The smooth dogfish-specific provisions would apply only along the Atlantic Coast (Maine through the east coast of Florida), not in the Gulf of Mexico or along the west coast of Florida.

4) Implementation of the 2012 Shark Biological Opinion

This action proposes to establish gear-tending requirements in order to implement the Terms and Conditions of the 2012 Shark Biological Opinion, including:

- Limiting soak times to 24 hours for fishermen using sink gillnet gear and
- Requiring a 2-hour net check for fishermen using drift gillnet gear.

5) Atlantic Shark Gillnet Vessel Monitoring System Requirements

This action proposes to require federal directed Atlantic shark limited access permit holders with gillnet gear on board to use a vessel monitoring system (VMS) only in the vicinity of the Southeast U.S. Monitoring Area, instead of anywhere the fishermen uses gillnets, in order to bring VMS requirements in line with the current Atlantic Large Whale Take Reduction Plan.

How do I comment?

Written comments on this proposed rulemaking must be received by November 14, 2014. NMFS will announce the dates and locations of public hearings in a future Federal Register notice.

You may submit comments on this document, identified by NOAA-NMFS-2014-0100, by any one 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-2014-0100, 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:** Please include the identifier NOAA-NMFS-2014-0100 when submitting comments. Comments sent by any other method, to any other address or individual, or received after the close of the comment period, may not be considered by NMFS. All comments received are a part of the public record and generally will be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We 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. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Atlantic Highly Migratory Species Management Division by e-mail to OIRA_Submission@omb.eop.gov, or fax to 202-395-7285.

This notice is a courtesy to Atlantic HMS fishery participants to help keep you informed about the fishery. Official notice of federal actions is made through filing such notice with the Office of the Federal Register. For further information on this proposed rule and draft environmental assessment, contact LeAnn Hogan or Karyl Brewster-Geisz at 301-427-8503 or Steve Durkee at 202-670-6637.

Copies of the proposed rule, draft environmental assessment, and other supporting documents are available upon request from the Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910 (phone: 301-427-8503, fax: 301-713-1917). The information will also be posted on the HMS website at: http://www.nmfs.noaa.gov/sfa/hms/.

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