



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

FEB 11 2019

MEMORANDUM FOR: Chris Oliver
Assistant Administrator for Fisheries

FROM: Alan Risenhoover
Director, Office of Sustainable Fisheries

SUBJECT: Record of Decision and Approval of the Final Amendment 11 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan and Implementing Final Rule, RIN 0648-BH75
-- DECISION MEMORANDUM

I intend, with your concurrence, to approve the Final Amendment 11 to the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP) and its implementing final rule. Your concurrence will finalize the National Environmental Policy Act (NEPA) Record of Decision (ROD), adopt Final Amendment 11 to the 2006 Consolidated Atlantic HMS FMP (Amendment 11) for North Atlantic shortfin mako shark management measures, and select the following final alternatives, which will establish the foundation for rebuilding the stock:

- Alternative A7, allow retention of shortfin mako sharks caught with longline or gillnet gear by fishermen with an Atlantic shark limited access permit only if the shark is dead at haulback. Retention of dead shortfin mako sharks with pelagic longline gear is allowed only if there is a functional electronic monitoring system on board the vessel. Allows retention of dead shortfin mako sharks with bottom longline and gillnet gear even if there is no electronic monitoring system or observer onboard;
- Alternative B2, increase the recreational minimum size limit for the retention of shortfin mako sharks from 54 inches fork length (FL) to 71 inches FL (180 cm FL) for male shortfin mako sharks and 83 inches FL (210 cm FL) for female shortfin mako sharks;
- Alternative B9, require the use of circle hooks for recreational shark fishing by all HMS permit holders.
- Alternative C1, no action, maintain current reporting systems for shortfin mako sharks; and,
- Alternative D3, establish the foundation for developing an international rebuilding plan for shortfin mako sharks. This measure requires the National Marine Fisheries Service (NMFS) to work with the International Commission for the Conservation of Atlantic Tunas (ICCAT) to develop a rebuilding plan and potential new measures to assist with rebuilding the stock.

These final alternatives were fully evaluated in a combined Final Environmental Impact Statement (FEIS), Regulatory Impact Review (RIR), Final Regulatory Flexibility Analysis (FRFA), and Final Social Impact Analysis. The FEIS and this ROD were prepared pursuant to NEPA, 42 USC § 4321 *et seq.*, the Council on Environmental Quality (CEQ) NEPA regulations



at 40 CFR Parts 1500-1508, and the National Oceanic and Atmospheric Administration's (NOAA) NEPA environmental review procedures at NAO 216-6A. Your signature on this document will complete the agency decision-making process for this action, finalizing the compliance process for NEPA, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Regulatory Flexibility Act (RFA), and other applicable law. It will also serve as your affirmation that you have been fully informed as to the environmental consequences of the action, including social and economic impacts of implementing Amendment 11 through regulations adopted in the final rule.

A final rule with implementing regulations will be published expeditiously following your signature. Temporary regulations adopted through emergency rulemaking in March 2018 are in effect through March 3, 2019. NMFS originally planned the rulemaking process and implementation to avoid any lapse between the expiration of the emergency rule and effectiveness of the final rule, but a federal government shutdown due to lapse in appropriations in December 2018-January 2019 delayed review and action. The final measures will become effective as close to March 3, 2019, as possible to ensure that the United States remains in compliance with ICCAT Recommendation 17-08.

BACKGROUND

Atlantic HMS are managed under the dual authority of the Magnuson-Stevens Act and the Atlantic Tunas Convention Act (ATCA). Under the Magnuson-Stevens Act, NMFS must, consistent with ten National Standards, manage fisheries to maintain optimum yield on a continuing basis while preventing overfishing. Under ATCA, the Secretary of Commerce is required to promulgate regulations as may be necessary and appropriate to carry out recommendations by ICCAT. The conservation and management measures finalized in this final rule, which address North Atlantic shortfin mako sharks, are taken under the authority of the Magnuson-Stevens Act and ATCA.

In August 2017, ICCAT's Standing Committee on Research and Statistics (SCRS) conducted a new benchmark stock assessment on the North Atlantic shortfin mako shark stock. The 2017 stock assessment included significant updates to inputs and model structures compared to the 2012 shortfin mako shark assessment. In addition to including a new model structure, the new assessment also used improved and longer catch time series (1950-2015), sex-specific biological parameters, and updated length composition data. The SCRS also evaluated a new estimate of the fishing mortality rate, largely derived from satellite tagging research. The assessment specifically indicated that B_{2015} is substantially less than B_{MSY} for eight of the nine models ($B_{2015}/B_{MSY} = 0.57-0.85$). In the ninth model, spawning stock fecundity (SSF) was less than SSF_{MSY} ($SSF_{2015}/SSF_{MSY} = 0.95$). Additionally, the assessment indicated that F_{2015} was greater than F_{MSY} (1.93-4.38), with a combined 90-percent probability from all models that the population is overfished with overfishing occurring. The 2017 assessment estimated that total North Atlantic shortfin mako shark catches across all nations are currently between 3,600 and 4,750 mt per year, and that total catches would have to be reduced below 1,000 mt (72-79 percent reduction) to prevent further population declines. The projections indicate that a total

allowable catch of 0 mt would produce a greater than 50-percent probability of rebuilding the stock by the year 2040, which is approximately equal to one mean generation time. The stock assessment report stated that while research indicates that post-release survival rates of Atlantic shortfin mako sharks are high (70 percent), the assessment could not determine if requiring live releases alone would reduce landings sufficiently to end overfishing and rebuild the stock. The stock assessment did not evaluate rebuilding times greater than one mean generation time, although shark stocks generally take longer than one mean generation time to rebuild given their slow reproductive biology and other factors.

In November 2017 at its annual meeting, ICCAT accepted this stock assessment and its results, and adopted new management measures for shortfin mako sharks (ICCAT Recommendation 17-08). These measures largely focus on maximizing live releases of shortfin mako sharks, allowing retention only under specified conditions in limited circumstances, increasing minimum size limits, and improving data collection in ICCAT fisheries. ICCAT stated that the measures in the Recommendation “are expected to prevent the population from decreasing further, stop overfishing and begin to rebuild the stock” with a commitment to “immediately taking actions to end overfishing of the North Atlantic shortfin mako stock with a high probability, as the first step in the development of a rebuilding plan.” The Recommendation provides that in 2019, ICCAT shall develop new management measures to establish a rebuilding plan with a high probability of avoiding overfishing and rebuilding the stock to B_{MSY} within a timeframe that takes into account the biology of the stock. The Recommendation included a requirement that CPCs authorizing their vessels to catch and retain on board, transship, or land North Atlantic shortfin mako report the amount of North Atlantic shortfin mako caught and retained on board as well as dead discards during the first six months in 2018 for review by the Commission at its 2018 annual meeting.

On December 13, 2017, based on the results of the SCRS assessment, NMFS determined the shortfin mako stock to be overfished with overfishing occurring. NMFS published an emergency interim final rule to implement measures in HMS recreational and commercial fisheries, consistent with ICCAT Recommendation 17-08, to address overfishing of shortfin mako sharks and the ICCAT six-month reporting requirement for 2018 (83 FR 8946; March 2, 2018). These temporary regulations could only remain in effect for up to 180 days, but could also be extended for an additional 186 days as provided in section 305(c) of the Magnuson-Stevens Act. On August 22, 2018, the interim final rule was extended through March 3, 2019 (83 FR 42452). The long-term measures in this final rule will replace these emergency measures.

NMFS announced its intent to prepare an Environmental Impact Statement (EIS) for Amendment 11 on March 5, 2018 (83 FR 9255) and provided notice of the availability of an Issues and Options document for scoping. In the Issues and Options paper, NMFS presented for discussion and public consideration a range of potential management measures for North Atlantic shortfin mako sharks to address overfishing, develop and implement measures consistent with ICCAT Recommendation 17-08, and take steps towards rebuilding the shortfin mako shark stock. NMFS requested public comments on potential commercial and recreational management measures to assist the Agency in analyzing alternatives for meeting the need for the Amendment.

During the comment period, which ended on May 7, 2018, NMFS conducted four public scoping meetings and a public webinar along with presentations at the Atlantic HMS Advisory Panel, three Atlantic Regional Fishery Management Councils (the New England, Mid-Atlantic, and Gulf of Mexico Fishery Management Councils), and the Atlantic and Gulf States Marine Fisheries Commissions.

Based on the alternatives presented and commented on during scoping, NMFS published a proposed rule for Draft Amendment 11 on July 27, 2018 (83 FR 35590), and the Environmental Protection Agency (EPA) published the notice of availability of the Draft Environmental Impact Statement (DEIS) on July 27, 2018 (83 FR 35637). In the DEIS, NMFS developed a reasonable range of alternatives within the following topics: commercial alternatives, recreational alternatives, monitoring alternatives, and rebuilding alternatives. All of the alternatives were designed to address the U.S. contribution to overfishing and to take steps toward rebuilding the stock while also remaining consistent with the intent of the ICCAT recommendation.

During the comment period, which lasted for 73 days, NMFS conducted six public hearings (Texas, Florida, New Jersey, Massachusetts, and twice in North Carolina) and a public webinar. Public hearing attendance totaled 14 attendees and was primarily comprised of representatives from the commercial fishery. In addition, NMFS presented Draft Amendment 11 to the Atlantic HMS Advisory Panel, four Atlantic Regional Fishery Management Councils (the New England, Mid-Atlantic, South Atlantic, and the Gulf of Mexico Fishery Management Councils), and the Atlantic States Marine Fisheries Commission. The comment period ended on October 8, 2018.

A total of 30 individual written comments were received during the public comment period including from the State of North Carolina, Commonwealth of Massachusetts, the Mid-Atlantic and New England Fishery Management Councils, Oceana, several other shark environmental groups, and several commercial and recreational groups. Oral comments were received from the South Atlantic Fishery Management Council. The summary of the comments and responses were provided in the Appendix 1 of the FEIS for Amendment 11 and will also be published in the final rule.

The FEIS was submitted to the EPA on December 14, 2018, and the Notice of Availability (NOA) was published on December 21, 2018 (83 FR 65670). The 30-day FEIS review period ended on January 22, 2019. As described below, during that time, NMFS received one comment on the FEIS.

BACKGROUND REQUIREMENTS FOR A RECORD OF DECISION UNDER NEPA

NMFS prepared the FEIS for Amendment 11 to address NEPA requirements and to integrate the studies, analyses, and procedures in the Magnuson-Stevens Act, RFA, Executive Order (EO) 12866, and other applicable laws. The FEIS analyzed direct, indirect, and cumulative impacts to the quality of the human environment, including social and economic impacts, associated with implementing the specified management actions for the HMS fisheries.

Consistent with CEQ regulations implementing NEPA, which specify that the ROD “may be integrated into any other record prepared by the agency,” this ROD was prepared as both a record of decision for adoption and implementation of Amendment 11 and the Agency decision memorandum for the regulatory actions implemented via a final rule. Pursuant to 40 CFR § 1505, the ROD must:

- State the Agency’s decision;
- Identify all the alternatives considered in reaching the decision;
- Specify the alternatives that are considered to be “environmentally preferable”;
- Identify and discuss relevant factors considered when selecting alternatives, such as economic considerations, technical considerations, agency statutory missions, and national policy. The Agency must state how these considerations entered into the decision; and,
- State whether all practicable means to avoid or minimize environmental harm from the selected alternatives were adopted, and if not, why they were not.

The environmentally preferable alternatives, as identified below, are the alternatives that would potentially cause the least damage to the biological and physical environment, and that would best protect, preserve, and enhance historic, cultural, and natural resources. The following alternatives have been identified as the environmentally preferable alternatives, as explained below:

- Alternative A6, prohibit the commercial retention of all shortfin mako sharks, live or dead.
- Alternative B10, prohibit landings of shortfin mako sharks in the HMS recreational fishery (catch and release only).

Although CEQ NEPA implementing regulations require the identification of an environmentally preferable alternative, the implementing regulations do not require the selection of this alternative by the agency. As provided for in the CEQ implementing regulations, the agency may take other factors into consideration when arriving at a decision on which alternative to implement. The environmentally preferable alternative may not be the selected alternative due to other considerations, including economic factors. The CEQ regulations likewise require the agency to identify its preferred alternatives in the FEIS. The environmentally preferable alternative(s) identified in the ROD differ from the agency-selected alternatives as permitted by the CEQ regulations.

AGENCY DECISION

NMFS is making the following decisions through this memorandum: NMFS is preparing and signing a ROD to complete the NEPA process in accordance with the CEQ regulations, selecting final management alternatives from among those analyzed in the FEIS as Final Amendment 11 to the 2006 Consolidated HMS FMP and authorizing its implementation through regulations, and authorizing the publication of the final rule with implementing regulations in the *Federal Register*. NMFS has decided to implement new measures to augment an existing rebuilding plan

for shortfin mako sharks established in Amendment 3 to the 2006 Consolidated HMS FMP that would promote the live release of the species and take action internationally to end overfishing. These new management measures would address overfishing and assist with the rebuilding of the stock, consistent with a recent ICCAT stock assessment and recommendation, by managing aspects of the HMS fisheries, and specifically decides to select and implement alternatives analyzed in the FEIS as Final Amendment 11.

Based on the analyses in the FEIS, NMFS has determined that the preferred alternatives will cumulatively reduce mortality of shortfin mako sharks and improve data collection, as recommended by the ICCAT SCRS. The preferred commercial fishery alternative (Alternative A7) should reduce shortfin mako shark mortality by restricting the retention to only shortfin mako sharks that are dead at haulback, restricting the gears that are allowed to retain the species (longline and gillnet gear), and reducing at-vessel and post-release mortality rates. It also requires electronic monitoring for retention of dead shortfin mako sharks in the pelagic longline fishery. The preferred recreational fishery alternatives (Alternatives B2 and B9) should reduce shortfin mako mortality by increasing the minimum size for retention by sex and expanding the circle hook requirement, which should reduce shortfin mako shark at-vessel and post-release mortality rates when caught. The preferred monitoring alternative (Alternative C1) will maintain current reporting requirements, but overall should improve the data collection of shortfin mako sharks in registered HMS tournaments as on January 1, 2019, NMFS increased HMS tournament reporting via a separate action. The preferred rebuilding alternative (Alternative D3) means that NMFS will take action at the international level through ICCAT to develop a rebuilding plan for shortfin mako sharks. These alternatives are preferred because they will efficiently achieve the necessary mortality reductions while also minimizing negative socioeconomic impacts to the extent practicable. They also recognize that international cooperation is critical for the effective management and rebuilding of the stock, particularly given that the United States represents a small portion of fishing mortality on the stock. The decision is to select the following alternatives, each of which is summarized in this section:

- Alternative A7, allow retention of shortfin mako sharks caught with longline or gillnet gear by fishermen with an Atlantic shark limited access permit only if the shark is dead at haulback. Require use of electronic monitoring to retain dead shortfin mako sharks with pelagic longline gear;
- Alternative B2, increase the recreational minimum size limit for the retention of shortfin mako sharks from 54 inches FL to 71 inches FL (180 cm FL) for male shortfin mako sharks and 83 inches FL (210 cm FL) for female shortfin mako sharks;
- Alternative B9, require the use of circle hooks for recreational shark fishing by all HMS permit holders;
- Alternative C1, do not require additional reporting of shortfin mako sharks outside of current reporting systems; and,
- Alternative D3, establish the foundation for developing an international rebuilding plan for shortfin mako sharks.

Under Alternative A7, shortfin mako sharks caught using gillnet, bottom longline, or pelagic

longline gear on properly-permitted vessels could be retained, provided the sharks are dead at haulback. In the case of pelagic longline vessels, an electronic monitoring system would be required to verify the shark is dead at haulback; however, an electronic monitoring system or observer would not be required for retention of dead mako sharks on bottom longline or gillnet vessels. Alternative A7 would reduce the number of landings by pelagic longline vessels on average by 74 percent, which would be within the range the ICCAT SCRS recommended (72-79 percent) to address overfishing. For gillnet and bottom longline gear, this alternative would reduce the number of landings by 28 percent. This alternative would likely result in short- and long-term direct minor positive ecological impacts because shortfin mako sharks caught by U.S. fishermen on pelagic longline, bottom longline, and gillnet gear that are alive at capture would be released.

Under Alternative B2, recreational HMS permit holders would only be authorized to retain male shortfin mako sharks that measure at least 71 inches FL (180 cm FL) and female shortfin mako sharks that measure at least 83 inches FL (210 cm FL), reducing the amount of recreational landings. These minimum size requirements would be consistent with the provisions in ICCAT Recommendation 17-08 that allow retention under limited, specific circumstances. Such reductions in fishing effort should result in landings reductions that more precisely achieve the ICCAT fishing mortality reduction target of 72 to 79 percent, when compared to the 83 inches FL size limit in Alternative B3, which was expected to be approximately 83 percent and thus may have been unnecessarily restrictive. Alternative B2 would have short- and long-term minor positive ecological impacts. Additionally, NMFS anticipates that allowing recreational fishermen the opportunity to harvest smaller male sharks under this alternative will help relieve fishing pressure on the larger female sharks which were estimated to comprise approximately 75 percent of the harvest under the preferred alternative from the interim emergency final rule measures. Public comment reflected that some commenters are concerned about the ability of recreational shark anglers to differentiate between male and female sharks. NMFS plans to address these concerns by adding information on how to distinguish the sex of sharks in shark outreach materials, including the Shark Endorsement educational video that all HMS permit holders must watch if they wish to receive the shark endorsement needed to retain sharks recreationally.

Under Alternative B9, all recreational HMS permit holders with a shark endorsement would be required to use non-offset, non-stainless steel circle hooks when fishing for sharks recreationally, except when fishing with flies or artificial lures, in federal waters of the Atlantic. Currently, circle hooks are required for shark fishing in all federal waters of the Atlantic below 41° 43' N latitude. This action would extend the circle hook requirement to all federal waters of the Atlantic. Circle hooks can generally be expected to reduce shark at-vessel and post-release mortality rates without reducing catchability compared to J-hooks, although the effects vary by species, gear configuration, bait, and other factors. Alternative B9 could result in short- and long-term minor direct positive ecological impacts for shortfin mako sharks. Since circle hooks likely provide similar benefits to many fish species, Alternative B9 would also likely have indirect minor positive impacts in both the short- and long-term since other species could similarly be released more easily and in better condition while the circle hooks are being used.

Under Alternative C1, NMFS would not make any changes to the current reporting requirements applicable to shortfin mako sharks in HMS fisheries. HMS commercial fishermen would continue to report shortfin mako catches through vessel logbooks along with dealer reporting of landings. HMS recreational anglers fishing from Maine to Virginia would continue to be required to report shortfin mako shark landings and releases if intercepted by the Large Pelagic Survey, and data would continue to be collected on shortfin mako shark catches by Access-Point Angler Intercept Survey (APAIS), which is part of the Marine Recreational Information Program (MRIP). Thus, no additional reporting requirements would be placed on HMS Angling and HMS Charter/Headboat permit holders who land shortfin mako sharks on non-tournament trips. ICCAT's SCRS recommended that member nations strengthen their monitoring and data collection efforts to monitor the future status of this stock. As of January 1, 2019, NMFS began to select all shark tournaments, which account for the majority of the recreational shortfin mako shark landings, for reporting (83 FR 63831; December 12, 2018). Fishing effort and catch information on shortfin mako sharks and other species of sharks will also help to improve recreational catch estimates and available biological information. This alternative would likely result in direct, short- and long-term, neutral ecological impacts.

Under Alternative D3, NMFS would take preliminary action toward rebuilding by adopting measures to end overfishing and establishing the foundation for an international rebuilding plan. NMFS would then take action at the international level through ICCAT to develop a rebuilding plan for shortfin mako sharks. As part of this alternative, NMFS would promote the Magnuson-Stevens Act's rebuilding provisions internationally when ICCAT considers future measures based on new scientific advice from the SCRS. At this time, SCRS is expected to provide advice in 2019, and ICCAT committed to developing a rebuilding plan in response to that advice in Recommendation 17-08. Under this alternative, NMFS would continue to implement new management measures for North Atlantic shortfin mako sharks in U.S. fisheries based on ICCAT Recommendation 17-08. Because of the small U.S. contribution to North Atlantic shortfin mako shark mortality, domestic reductions of shortfin mako shark mortality alone would not end overfishing of the entire stock. Therefore, NMFS believes that ending overfishing and preventing an overfished status would be better accomplished through international efforts under this alternative where other countries that have large landings of shortfin mako sharks could participate in mortality reduction negotiations. Sections 102 and 304(g)(1)(F) and 304(g)(1)(G)(i) of the Magnuson-Stevens Act encourage this approach, particularly where a species has an overfished condition due to excessive international fishing pressure. This alternative would not cause an unnecessary disadvantage to domestic recreational and commercial fishermen, but would have direct, minor negative ecological impacts for shortfin mako sharks in the short-term, pending the development of an international rebuilding plan to further reduce fishing mortality in the commercial and recreational shortfin mako fisheries. However, there would be changes to current regulations as described under the commercial, recreational, and monitoring alternatives that would reduce mortality in U.S. fisheries to a level recommended by the SCRS. In the long-term, any management recommendations adopted at the international level to end overfishing of shortfin mako sharks and rebuild the stock could have direct, moderate positive ecological impacts on the North Atlantic shortfin mako shark.

population by reducing overall mortality of shortfin mako sharks and helping rebuild the stock.

THE ALTERNATIVES CONSIDERED

As described in Table 1, NMFS analyzed a range of alternatives. These alternatives considered potential changes in the HMS commercial and recreational shark fisheries, as well as potential changes regarding monitoring and rebuilding measures. Further detail on each alternative may be found in the FEIS. As required by NEPA, a No Action Alternative was identified and considered (40 CFR Part 1502.14).

THE SELECTED ALTERNATIVES, THE ENVIRONMENTALLY PREFERABLE ALTERNATIVES, AND THE FACTORS CONSIDERED IN THE DECISION

Commercial Alternatives:

The selected commercial alternative (A7) is summarized under AGENCY DECISION above. In addition to the selected alternative and the No Action Alternative (A1), NMFS considered alternatives that would allow retention of a shortfin mako shark by commercial HMS permit holders only if the shark is dead at haulback under different scenarios (Alternative A2 – there is a functional electronic monitoring system on board the vessel and Alternative A3 – only if the permit holder agrees to allow the Agency to use electronic monitoring to verify landings of shortfin mako sharks); Alternative A4 – allow retention of live or dead shortfin mako shark by commercial HMS permit holders only if the shark is over 83 inches fork length and there is a functional electronic monitoring system or observer on board the vessel to verify the fork length of the shark before the shark is dressed; Alternative A5 – allow retention of a shortfin mako shark by commercial HMS permit holders only if the shark is dead at haulback and an observer is on board the vessel to verify the shark was dead at haulback; and Alternative A6 – prohibit the commercial landing of all shortfin mako sharks, live or dead.

The commercial No Action alternative (A1) was expected to result in cumulative minor negative ecological impacts and neutral long-term socioeconomic impacts. It is not preferred because this alternative would not reduce the U.S. contribution to shortfin mako shark mortality.

Alternative A2 was expected to have cumulative minor positive ecological impacts, but minor negative socioeconomic impacts. Although this alternative was preferred at the DEIS stage, NMFS now prefers Alternative A7, which is a modified version of Alternative A2, by allowing the retention of shortfin mako sharks caught on bottom longline and gillnet gear in addition to pelagic longline gear, although no electronic or observer monitoring would be required for those gear types. Since Alternative A7 is responsive to public comment while still meeting management goals, NMFS no longer prefers Alternative A2.

Alternative A3 was expected to have cumulative minor positive ecological impacts, but minor negative socioeconomic impacts. It is not preferred because requiring commercial fishermen to opt in or out of an electronic monitoring program for shortfin mako sharks would be an additional regulatory burden on the fishermen that would not have any measurable conservation

or management benefits. The program would also be complicated to administer and would create two separate data streams from within the fleet, as some vessels and catch would be compared and analyzed differently due to different regulatory restrictions.

Alternative A4 was expected to have cumulative minor positive ecological impacts, but minor negative socioeconomic impacts. It is not preferred because it is more complex for fishermen to comply with than Alternative A7 and would not provide more conservation benefit for the stock.

Alternative A5 was expected to have cumulative minor positive ecological impacts, but minor negative socioeconomic impacts. This alternative is not preferred because more restrictive limits would be placed on fishermen using pelagic longline, bottom longline, and gillnet gear, relative to the preferred Alternative A7. Under current regulations, observers are routinely assigned to a relatively small percentage of vessels and observer resources are limited in a way that would make placement of additional observers on vessels only for the purpose of retaining shortfin mako sharks difficult. It could also divert observer resources from other needed observer placements. While the reduced opportunity to retain dead shortfin mako sharks would likely create an incentive to avoid shortfin mako sharks during fishing operations, it would not be expected to significantly reduce fishing mortality on the stock, since fishing may still proceed without observers if a vessel is not selected.

Alternative A6, the environmentally preferable alternative, was expected to result in cumulative minor positive ecological impacts, but minor negative socioeconomic impacts. It is not preferred because this alternative would place unnecessarily restrictive limits on and disadvantage U.S. fishermen compared to fishermen in other countries that implemented the provisions in the ICCAT Recommendation 17-08 verbatim. Additionally, shortfin mako shark mortality associated with current U.S. landings is minimal when compared to the total North Atlantic shortfin mako shark mortality.

Recreational Alternatives:

The selected recreational alternatives (B2 and B9) are summarized under AGENCY DECISION above. In addition to the selected alternatives and the No Action Alternative (B1), NMFS considered Alternative B3 – increase the minimum size for retention of all shortfin mako sharks to 83 inches FL; Alternative B4 – increase the minimum size to 71 inches FL for male and 108 inches FL for female shortfin mako sharks; Alternative B5 – increase the minimum size to 71 inches FL for male and 120 inches FL for female shortfin mako sharks; Alternatives B6a-e – create a minimum size of 120 inches FL except during specific seasons where the seasonal retention of shortfin mako sharks with different minimum size limits for males and females would change depending on the season length; Alternative B7 – establish a slot limit for recreational retention; Alternative B8 – establish a tagging or lottery program to land shortfin mako sharks; and Alternative B10 – prohibit recreational landings of shortfin mako sharks (catch and release only).

The recreational No Action alternative (B1) was expected to result in cumulative minor negative

ecological, but neutral socioeconomic impacts. It is not preferred because with no new measures to address overfishing and assist with rebuilding the shortfin mako sharks, overfishing would continue on the stock, and NMFS would fail to meet obligations under the Magnuson-Stevens Act and ATCA to sustainably manage the stock.

Alternatives B3 and B4 were expected to have cumulative minor positive ecological impacts and moderate negative socioeconomic impacts. These alternatives are not preferred because the increased minimum size would exceed the target reduction recommended by ICCAT and thus be unnecessarily restrictive to recreational fishermen.

Alternatives B6a-e were expected to have cumulative minor positive ecological impacts, but moderate negative socioeconomic impacts. These alternatives, individually or cumulatively, were not preferred because they are unlikely to result greater reductions in landings than the preferred alternative, Alternative B2, and could potentially result in regional inequalities in access to the recreational shortfin mako shark fishery due to differences in seasonal abundance.

Alternative B7 was expected to result in cumulative minor positive ecological and moderate negative socioeconomic impacts. It is not preferred because there are less complicated options from a regulatory and implementation perspective available that are capable of meeting the mortality reductions recommended by ICCAT.

Alternative B8 was expected to result in cumulative minor positive ecological and moderate negative socioeconomic impacts. It is not preferred because of the potential for a large number of landings in addition to greatly increased administrative duties to manage and monitor a landings tag program.

Alternative B10, the environmentally preferable alternative, was expected to result in cumulative minor positive ecological and moderate negative socioeconomic impacts. It is not preferred because unnecessary inequalities would be created between the commercial and recreational fishing sectors when other alternatives are available that can achieve the ICCAT recommended landings reduction in a more equitable fashion.

Monitoring Alternatives:

The selected monitoring alternative (C1) is summarized under AGENCY DECISION above. In addition to the selected alternative, NMFS considered Alternative C2 – establish mandatory commercial reporting of shortfin mako shark catches (landings and discards) on vessel monitoring systems (VMS) and Alternative C3 – implementing mandatory reporting of all recreationally landed and discarded shortfin mako sharks.

Alternative C2 was expected to result in cumulative minor positive ecological and neutral socioeconomic impacts. It is not preferred because the VMS reporting requirements under this alternative could potentially and unnecessarily increase the regulatory reporting burden on HMS commercial vessels that already report in other ways (vessel logbooks, dealer reports of landings

and electronic monitoring system) that are sufficient vehicles for improving data collection for shortfin mako sharks.

Alternative C3 was expected to have cumulative minor positive ecological and neutral socioeconomic impacts. It is not preferred due to the potential to unnecessarily increase the regulatory burden on recreational fishermen. NMFS estimates of shortfin mako sharks in the recreational fishery currently have relatively high precision, as evidenced by the low percent standard error rates in the Large Pelagic Survey, and thus, increased reporting requirements are not necessary.

Rebuilding Alternatives:

The selected rebuilding alternative (D3) is summarized under AGENCY DECISION above. In addition to the selected alternative and the No Action Alternative (D1), NMFS considered Alternative D2 – establish a domestic rebuilding plan; Alternative D4 – remove shortfin mako sharks from the pelagic shark management group, implement a U.S. quota if established by ICCAT, and adjust the pelagic shark quota accordingly; Alternative D5 – implement area management for shortfin mako sharks if established by ICCAT; and Alternative D6 – establish bycatch caps for all fisheries that interact with shortfin mako sharks.

The rebuilding No Action alternative (D1) was expected to result in cumulative minor negative ecological and neutral socioeconomic impacts. It is not preferred because no rebuilding plan would be established for shortfin mako sharks to reduce fishing mortality and help rebuild the stock.

Alternative D2 was expected to have cumulative neutral ecological and socioeconomic impacts. It is not preferred because no international cooperation would be a part of this alternative and the majority of mortality is occurring with vessels from other ICCAT countries. Thus, the stock would continue to be overfished with overfishing occurring.

Alternative D4 was expected to have cumulative neutral ecological and socioeconomic impacts. It is not preferred because no international cooperation would be a part of this alternative and the majority of shortfin mako shark mortality is occurring by vessels from other ICCAT countries. Thus, the stock would continue to be overfished with overfishing occurring.

Alternative D5 was expected to have cumulative minor positive ecological and minor negative socioeconomic impacts. It is not preferred because no scientific advice from the SCRS on area management was given for shortfin mako sharks. Without a specific area to analyze at this time, the precise impacts on commercial and recreational fishery operations cannot be determined. Implementing area management for shortfin mako sharks, if recommended by the scientific advice, could lead to a reduction in localized fishing effort, which would likely have adverse economic impacts for small entities that land shortfin mako sharks.

Alternative D6 was expected to have cumulative minor positive ecological and neutral

socioeconomic impacts. It is not preferred because shortfin mako sharks are primarily caught commercially with pelagic longline gear when fishing for swordfish and tuna species and recreationally with rod and reel gear when targeting sharks or other HMS. Also, ICCAT has not established an overall total allowable catch for shortfin mako sharks and it would be difficult to determine at what level NMFS would establish a bycatch cap.

Summary of Changes from the DEIS to the FEIS and the Proposed and Final Rule

The changes from the preferred alternatives in the DEIS to the preferred alternatives in the FEIS that are selected in this Record of Decision and Decision Memorandum, and changes from the proposed rule to the final rule, are described in Table 2. These changes occurred in response to public comment on the measures in the DEIS and proposed rule and updated data for the analyses that occurred in the proposed rule, as follows:

- Modification to the authorized commercial gears to retain shortfin mako sharks.

NMFS proposed to allow the retention of shortfin mako sharks by commercial HMS permit holders only if the shark is dead at haulback and there is a functional electronic monitoring system on board the vessel (Alternative A2).

Based on public comment and updated analyses, NMFS added Alternative A7 which is a modified version of the previously-preferred Alternative A2. The final preferred Alternative A7 makes a change to the authorized commercial gears from the preferred alternative in the DEIS, Alternative A2. Alternative A7 specifies that shortfin mako sharks caught using gillnet, bottom longline, or pelagic longline gear on properly-permitted vessels could be retained, provided they are dead at haulback. Pelagic longline vessels would still be required to have an electronic monitoring system on board to verify the shark is dead at haulback, while an electronic monitoring system would not be required on bottom longline or gillnet vessels. This change is expected to reduce the minor negative socioeconomic impacts expected under the proposed Alternative A2 by expanding the ability to retain dead shortfin mako sharks to the bottom longline and gillnet fisheries. However, environmental impacts would be unchanged since shortfin mako shark interactions with bottom longline and gillnet gears are very infrequent, and the majority of shortfin mako sharks caught by these gears are dead at haulback. Thus, this alternative is expected to result in relatively the same number of dead sharks retained at haulback while not resulting in regulatory waste in the bottom longline and gillnet fisheries, which are typically not fisheries regulated by ICCAT.

- Modification to the recreational minimum size limit.

NMFS proposed to increase the minimum size limit for all shortfin mako sharks from 54 inches FL to 83 inches FL (Alternative B3). Based on public comment, updated analyses, and further review in the FEIS, NMFS changed the preferred alternative to the size limit requirements in the ICCAT recommendation (71 inches FL for male and 83 inches FL for female) for shortfin mako sharks landed in the recreational fishery. This will ameliorate socioeconomic impacts for fishermen that plan to land shortfin mako sharks, since male sharks between 71 and 83 inches FL

could be retained. Importantly, this approach leaves reproductive-size females in the population.

- Modifications regarding Atlantic HMS Charter/Headboat, Atlantic Tunas General category, and Swordfish General Commercial permit holders.

Based on public comment, NMFS is clarifying how the recreational limits would apply to the few individuals who hold a commercial shark vessel permit in addition to one of a variety of other vessel permits, such as HMS Charter/Headboat, that allow for recreational landings of sharks under certain circumstances. These individuals generally fish with rod and reel or other handgear as opposed to pelagic longline, bottom longline, or gillnet gear. While they hold a commercial shark permit, for the most part, these individuals are fishing for sharks recreationally. However, under the combination of measures in the proposed rule, these individuals would not have been allowed to land any shortfin mako sharks as they would not have the electronic monitoring equipment required under the proposed commercial measures. For the sake of clarity and to be responsive to public comment, this modification specifies that the recreational shark requirements, including the no sale requirement, apply for these individuals when shortfin mako sharks are onboard. Thus, this clarifies that these permit holders can still land shortfin mako sharks under the recreational size limits and that the landed sharks cannot be sold.

Additional Actions

In addition to the management measures in this final action, NMFS also clarifies the definition of the fork length measurement and plans to update outreach material on how to properly distinguish between male and female sharks for recreational fishermen.

The current definition of fork length is the straight line measurement along the length of the fish from the tip of the upper jaw to the fork of the tail. When the minimum size of shortfin mako sharks was increased under the emergency regulations, NMFS received comments about the measurement definition since fishermen would need to accurately measure shortfin mako sharks to legally land the species. Before the increased minimum size limit, the majority of shortfin mako sharks caught, especially in HMS tournaments, would have been above the then-minimum size limit of 54 inches FL. As a result, in the proposed rule, NMFS proposed modifications that would clarify that definition as the straight-line measurement of a fish from the midpoint of the anterior edge of the fish to the fork of the caudal fin. The measurement is not made along the curve of the body as is required for some other HMS (i.e. tuna species). No comments were received regarding the proposed revisions to the definition. As such, NMFS intends to finalize the definition as proposed.

Since the preferred recreational alternative (Alternative B2) would implement different minimum sizes for each sex of shortfin mako shark species, NMFS intends to include information on properly distinguishing between male and female sharks on all related outreach materials, the HMS and permit webpages, and the shark endorsement video (which is mandatory for all HMS permit holders that wish to fish for or retain sharks recreationally). NMFS also expects to provide such information to registered HMS shark tournaments to make sure participants are

aware of the separate size limits and how to distinguish between male and female sharks.

MITIGATION MEASURES, MONITORING, AND ONGOING RESEARCH

NEPA implementing regulations require Federal agencies to “[u]se all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.” 40 CFR 1500.2(f). The mitigation of environmental impacts must be considered whether or not the impacts are significant. The ROD for an impact statement must identify the mitigation measures the agency is adopting.

The CEQ regulations at 40 CFR 1508.20 define “mitigation” as:

- Avoiding the impact altogether by not taking a certain action or parts of an action.
- Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- Compensating for the impact by replacing or providing substitute resources or environments.

The individual alternatives were selected because they individually, or in concert with the other selected alternatives, achieve the objectives of the action. Because the cumulative ecological impacts are expected to be neutral to minor positive for the shortfin mako shark stock and other HMS and protected resources, there are no negative ecological impacts of the action to mitigate.

There are, however, minor adverse socioeconomic impacts expected from the action. The selected alternatives were chosen because they achieve the conservation objectives for the shortfin mako shark stock and, where appropriate, because they mitigate adverse socioeconomic impacts, as discussed below.

The preferred commercial alternative (A7) would allow shortfin mako sharks caught using gillnet, bottom longline, or pelagic longline gear on properly-permitted vessels to be retained, provided they are dead at haulback. In the case of pelagic longline vessels, an electronic monitoring system would be required to verify the shark is dead at haulback; an electronic monitoring system would not be required on bottom longline or gillnet vessels. This alternative would have minor adverse socioeconomic impacts because these measures would reduce the number of shortfin mako sharks landed and sold. However, shortfin mako sharks are rarely a targeted species and are worth less than other, more valuable target species such as swordfish or tuna, so the adverse effects would be minor. In addition, shortfin mako shark measures are unlikely to affect total effort, and businesses that support commercial fishing such as dealers, processors, and bait and tackle suppliers are unlikely to be affected. Thus, no mitigation measures are necessary to address adverse socioeconomic impacts. While there are minor

adverse socioeconomic impacts, these impacts are not avoidable, given the need to achieve the Amendment 11 objectives and the requirements of the Magnuson-Stevens Act and ATCA.

The preferred recreational alternatives (Alternatives B2 and B9) could result in some minor to moderate adverse socioeconomic impacts from the reduction in landings and in catch due to the new minimum sizes and use of circle hooks. There are two factors that might minimize reductions in fishing effort while remaining within the needed mortality reductions for shortfin mako sharks. First, recreational data reflected in the FEIS suggests that a number of sharks that are being released by fishermen are greater in size than the 54 inches FL minimum size. If this is the case, increasing the minimum size limit and requiring recreational anglers to release more shortfin mako sharks may have less impact on directed fishing effort than anticipated. Second, HMS anglers have a number of substitute species to which they can shift their fishing effort including common thresher sharks, blue sharks, various tuna species, and swordfish. If HMS anglers are satisfied to practice catch-and-release fishing for shortfin mako sharks below the legal minimum size, or shift their fishing effort to other species, then adverse cumulative direct and indirect socioeconomic impacts are likely to be minor for this alternative. In addition, while the use of circle hooks could result in a reduction in target catch, the circle hook requirement is limited to fishermen that hold a shark endorsement and would not apply broadly to all HMS anglers, mitigating adverse impacts.

When taken as a whole, preferred Alternatives C1 and D3 would have neutral cumulative socioeconomic impacts because the measures would improve data collection and establish the foundation for an international rebuilding plan. Preferred Alternative C1 would make no changes to the current reporting requirements for individual anglers applicable to shortfin mako sharks in HMS fisheries, thus fishing practices are expected to remain the same, even though HMS is expanding the tournament reporting to shark tournaments. Preferred Alternative D3, which would establish the foundation for developing an international rebuilding plan for shortfin mako sharks based on the recommendation by ICCAT's SCRS in 2019 could cause long-term direct, minor adverse socioeconomic impacts if the measures change the way the U.S. recreational and commercial shortfin mako shark fishery operates. However, any future action to implement international measures would be analyzed in a separate rulemaking and would be subject to the requirement to mitigate socioeconomic adverse impacts to the extent practicable.

Table 1. Comparison of the impacts of analyzed alternatives.

Alternative	Quality	Timeframe	Ecological	Protected Resources	Socio-economic
Alternatives for Commercial Fishing					
A1 No Action. Keep the non-emergency rule regulations for shortfin mako sharks	Direct	Short-term	Minor Adverse	Neutral	Neutral
		Long-term	Minor Adverse	Neutral	Minor Adverse
	Indirect	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral
	Cumulative		Minor Adverse	Neutral	Neutral
A2 Allow retention of a shortfin mako shark by persons with a Directed or Incidental shark LAP only if the shark is dead at haulback and there is a functional electronic monitoring system on board the vessel.	Direct	Short-term	Minor Beneficial	Minor Beneficial	Minor Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Minor Adverse
	Indirect	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral
	Cumulative		Minor Beneficial	Minor Beneficial	Minor Adverse
A3 Allow retention of a shortfin mako shark by persons with a Directed or Incidental shark LAP only if the shark is dead at haulback and only if the permit holder agrees to allow the Agency to use electronic monitoring to verify landings of shortfin mako sharks	Direct	Short-term	Minor Beneficial	Minor Beneficial	Minor Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Minor Adverse
	Indirect	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral
	Cumulative		Minor Beneficial	Minor Beneficial	Minor Adverse
A4 Allow retention of live or dead shortfin mako sharks by persons with a Directed or Incidental shark LAP only if	Direct	Short-term	Minor Beneficial	Minor Beneficial	Minor Adverse

the shark is over 83 inches FL and there is a functional electronic monitoring system or observer on board the vessel to verify the fork length of the shark before the shark is dressed		Long-term	Minor Beneficial	Minor Beneficial	Minor Adverse
	Indirect	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral
	Cumulative		Minor Beneficial	Minor Beneficial	Minor Adverse
A5 Allow retention of a shortfin mako shark by persons with a Directed or Incidental shark LAP only if the shark is dead at haulback and there is an observer on board the vessel to verify the shark was dead at haulback	Direct	Short-term	Minor Beneficial	Minor Beneficial	Minor Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Minor Adverse
	Indirect	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral
	Cumulative		Minor Beneficial	Minor Beneficial	Minor Adverse
A6 Prohibit the commercial landing of all shortfin mako sharks, live or dead	Direct	Short-term	Minor Beneficial	Minor Beneficial	Minor Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Minor Adverse
	Indirect	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral
	Cumulative		Minor Beneficial	Minor Beneficial	Minor Adverse
A7 Allow retention of shortfin mako sharks by persons with a Directed or Incidental shark LAP when caught with longline or gillnet gear and only if the shark is dead at haulback. Retention of dead shortfin mako sharks with pelagic longline gear is allowed only if there is a functional electronic monitoring system on board the vessel – Preferred Alternative	Direct	Short-term	Minor Beneficial	Minor Beneficial	Minor Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Minor Adverse
	Indirect	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral
	Cumulative		Minor Beneficial	Minor Beneficial	Minor Adverse

Alternative	Quality	Timeframe	Ecological	Protected Resources	Socio-economic
Alternatives for Recreational Fishing					
B1 No Action. Keep the non-emergency rule regulations for shortfin mako sharks.	Direct	Short-term	Minor Adverse	Neutral	Neutral
		Long-term	Minor Adverse	Neutral	Moderate Adverse
	Indirect	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral
	Cumulative		Minor Adverse	Neutral	Moderate Adverse
<i>B2 Increase the minimum size limit for the retention of shortfin mako sharks from 54 inches FL to 71 inches FL (180 cm FL) for male and 83 inches FL (210 cm FL) for female shortfin mako sharks. – Preferred Alternative</i>	Direct	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Indirect	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Cumulative		Minor Beneficial	Minor Beneficial	Moderate Adverse
B3 Increase the minimum size of all shortfin mako sharks from 54 inches FL to 83 inches FL	Direct	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Indirect	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Cumulative		Minor Beneficial	Minor Beneficial	Moderate Adverse
B4 Increase the minimum size limit for the retention of shortfin mako sharks from 54 inches FL to 71 inches FL for male and 108 inches FL for female shortfin mako sharks.	Direct	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Indirect	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse

	Cumulative		Minor Beneficial	Minor Beneficial	Moderate Adverse
B5 Increase the minimum size limit for the retention of male shortfin mako sharks to 71 inches FL and greater than 120 inches FL for females.	Direct	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Indirect	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Cumulative		Minor Beneficial	Minor Beneficial	Moderate Adverse
B6a Seasonal retention of shortfin mako sharks from May through October at 71 inches FL for males and 83 inches FL for females.	Direct	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Indirect	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Cumulative		Minor Beneficial	Minor Beneficial	Minor Adverse
B6b Seasonal retention of shortfin mako sharks from June through August at 71 inches FL for males and 100 inches FL for females.	Direct	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Indirect	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Cumulative		Minor Beneficial	Minor Beneficial	Minor Adverse
B6c Seasonal retention of shortfin mako sharks from June through July at 71 inches FL for males and 90 inches FL for females.	Direct	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Indirect	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Cumulative		Minor Beneficial	Minor Beneficial	Minor Adverse

B6d Seasonal retention of shortfin mako sharks in June only at 71 inches FL for males and 83 inches FL for females.	Direct	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Indirect	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Cumulative		Minor Beneficial	Minor Beneficial	Minor Adverse
B6e Establish a process for seasonal retention and minimum size limits for shortfin mako sharks based on certain criteria.	Direct	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Minor Adverse
	Indirect	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Minor Adverse
	Cumulative		Minor Beneficial	Minor Beneficial	Moderate Adverse
B7 Establish a slot limit for recreational retention of male and female shortfin mako sharks.	Direct	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Indirect	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Cumulative		Minor Beneficial	Minor Beneficial	Moderate Adverse
B8 Establish a tagging or lottery program to land shortfin mako sharks greater than the minimum sizes.	Direct	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Indirect	Short-term	Neutral	Neutral	Moderate Adverse
		Long-term	Neutral	Neutral	Moderate Adverse
	Cumulative		Minor Beneficial	Minor Beneficial	Moderate Adverse
	Direct	Short-term	Minor Beneficial	Minor Beneficial	Minor Adverse

B9 <i>Require the use of circle hooks for recreational shark fishing. – Preferred Alternative</i>		Long-term	Minor Beneficial	Minor Beneficial	Minor Adverse
	Indirect	Short-term	Minor Beneficial	Minor Beneficial	Neutral
		Long-term	Minor Beneficial	Minor Beneficial	Neutral
	Cumulative		Minor Beneficial	Minor Beneficial	Minor Adverse
B10 Prohibit landing of shortfin mako sharks in the HMS recreational fishery (catch and release only).	Direct	Short-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Moderate Adverse
	Indirect	Short-term	Minor Beneficial	Neutral	Neutral
		Long-term	Minor Beneficial	Neutral	Neutral
	Cumulative		Minor Beneficial	Minor Beneficial	Moderate Adverse
Alternative	Quality	Timeframe	Ecological	Protected Resources	Socio-economic
Alternatives for Monitoring Measures					
C1 <i>No action. Do not require reporting of shortfin mako sharks outside of current commercial and recreational reporting systems. – Preferred Alternative</i>	Direct	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral
	Indirect	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral
	Cumulative		Neutral	Neutral	Neutral
C2 Establish mandatory commercial reporting of shortfin mako shark catches (landings and discards) on VMS.	Direct	Short-term	Minor Beneficial	Neutral	Neutral
		Long-term	Minor Beneficial	Neutral	Minor Adverse
	Indirect	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral
	Cumulative		Minor Beneficial	Neutral	Neutral

C3 Implement mandatory reporting of all recreationally landed and discarded shortfin mako sharks (e.g., app, website, Vessel Trip Reports).	Direct	Short-term	Minor Beneficial	Neutral	Neutral
		Long-term	Minor Beneficial	Neutral	Neutral
	Indirect	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral
	Cumulative		Minor Beneficial	Neutral	Neutral
Alternative	Quality	Timeframe	Ecological	Protected Resources	Socio-economic
Rebuilding Measures					
D1 No action. Do not establish a rebuilding plan for shortfin mako sharks.	Direct	Short-term	Minor Adverse	Neutral	Neutral
		Long-term	Minor Adverse	Neutral	Neutral
	Indirect	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral
	Cumulative		Minor Adverse	Neutral	Neutral
D2 Establish a domestic rebuilding plan for shortfin mako sharks unilaterally (i.e., without ICCAT).	Direct	Short-term	Minor Beneficial	Neutral	Neutral
		Long-term	Minor Beneficial	Neutral	Minor Adverse
	Indirect	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral
	Cumulative		Neutral	Neutral	Neutral
D3 Establish the foundation for developing an international rebuilding plan for shortfin mako sharks. – Preferred Alternative	Direct	Short-term	Minor Adverse	Neutral	Neutral
		Long-term	Moderate Beneficial	Neutral	Minor Adverse
	Indirect	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral

	Cumulative		Neutral	Neutral	Neutral
D4 Remove shortfin mako sharks from the pelagic shark management group and that group's quota; implement a U.S. shortfin mako shark-specific quota if established by ICCAT, and adjust the pelagic shark quota accordingly.	Direct	Short-term	Neutral	Neutral	Neutral
		Long-term	Minor Beneficial	Neutral	Minor Adverse
	Indirect	Short-term	Neutral	Neutral	Neutral
		Long-term	Neutral	Neutral	Neutral
	Cumulative		Minor Beneficial	Neutral	Minor Adverse
D5 Implement area management for shortfin mako sharks if established by ICCAT.	Direct	Short-term	Neutral	Neutral	Minor Adverse
		Long-term	Neutral	Neutral	Minor Adverse
	Indirect	Short-term	Neutral	Neutral	Minor Adverse
		Long-term	Neutral	Neutral	Minor Adverse
	Cumulative		Minor Beneficial	Neutral	Minor Adverse
D6 Establish bycatch caps in all fisheries that interact with shortfin mako sharks.	Direct	Short-term	Minor Beneficial	Minor Beneficial	Minor Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Neutral
	Indirect	Short-term	Minor Beneficial	Minor Beneficial	Minor Adverse
		Long-term	Minor Beneficial	Minor Beneficial	Neutral
	Cumulative		Minor Beneficial	Minor Beneficial	Neutral

Table 2. The preferred alternatives of Final Amendment 11 to the 2006 Consolidated HMS FMP, selected in this action, and reason for any changes from the DEIS or the FEIS.

Alternative Topics	Preferred Alternatives in FEIS
Commercial Measures	<p><i>Alternative A7</i> Allow retention of shortfin mako sharks caught with longline or gillnet gear by persons issued a Directed or Incidental shark LAP only if the shark is dead at haulback. Retention of dead shortfin mako sharks with pelagic longline gear is allowed only if there is a functional electronic monitoring system on board the vessel</p>
<p>Reason for Change: Based on public comment, NMFS developed a new alternative, Alternative A7, which would allow retention of dead shortfin mako sharks by fishermen using bottom longline and gillnet gears without electronic monitoring onboard. Public comment indicated that requiring electronic monitoring systems for such vessels was too expensive and difficult given the size of the vessels and would essentially result in no retention allowed. Allowing these non-ICCAT fishery gear types to occasionally land shortfin mako sharks that are dead at haulback would prevent regulatory discards. Interactions with these gears are very infrequent, but the majority of shortfin mako sharks caught by these gears are dead at haulback. Any live shortfin mako sharks caught by commercial fishermen while using pelagic longline, bottom longline, or gillnet gears would need to be released.</p>	
Recreational Measures	<p><i>Alternative B2</i> Increase the minimum size limit for the retention of shortfin mako sharks from 54 inches FL to 71 inches FL (180 cm FL) for male shortfin mako sharks and 83 inches FL (210 cm FL) for female shortfin mako sharks</p> <p><i>Alternative B9</i> Require the use of circle hooks for recreational shark fishing</p>
<p>Reason for Change: This change responds to public comment and takes into consideration updated analyses of the effectiveness of the measures adopted by emergency rulemaking earlier this year, which were reflected in the originally-preferred Alternative B3. NMFS now prefers Alternative B2 for the recreational minimum size for shortfin mako sharks because it reflects the size limit requirements in the ICCAT recommendation. NMFS determined that its original preference, which did not distinguish based on sex and thus was more restrictive was not necessary to achieve the needed conservation benefit. This alternative also would have lower adverse socioeconomic impacts when compared to Alternative B3.</p>	
Monitoring Measures	<p><i>Alternative C1</i> No action. Do not require reporting of shortfin mako sharks outside of current reporting systems</p>
Rebuilding Measures	<p><i>Alternative D3</i> Establish the foundation for developing an international rebuilding plan for shortfin mako sharks</p>

COMMENTS RECEIVED AFTER RELEASE OF THE FEIS

As described in the background section of this Record of Decision and Decision Memorandum, the Notice of Availability of the FEIS for Final Amendment 11 to the Consolidated HMS FMP published on December 21, 2018 (83 FR 65670). The FEIS review period was open through January 22, 2019. During that time, NMFS received one comment from the public.

The commenter raised issues that NMFS had already considered and addressed in the FEIS and in NMFS's response to similar comments on the proposed rule, which were included in the FEIS. The comment received on the FEIS does not raise significant new issues that warrant additional analysis or response or that could affect the alternatives selected. As a result, NMFS did not change any of the selected alternatives. The primary concerns raised in the comment are:


- The commenter expressed concern regarding the new selected alternative A7, which would allow bottom longline and gillnet fishermen to retain shortfin mako sharks without an electronic monitoring system or observers. The commenter states allowing these fishermen to retain shortfin mako sharks would be outside the scope of the ICCAT recommendation. NMFS previously considered this concern as described in Chapter 4 of the FEIS. NMFS addressed this concern by stating that it is doubtful that vessels using bottom longline and gillnet gear are targeting shortfin mako sharks and the low interactions are usually dead at haulback. In addition, ICCAT Recommendation 17-08 allows retention of shortfin mako sharks that are dead at haulback without the verification of electronic monitoring or observers in certain limited circumstances, such as for vessels under 12 meters. Most vessels that use bottom longline or gillnet gear to target sharks have vessel lengths that are below 12 meters.
- The commenter prefers mandatory reporting of recreationally caught shortfin mako sharks (Alternative C3) since 60 percent of the total U.S. mortality of shortfin mako sharks are caught by recreational fishermen, who are not required to report these landings. The commenter provided this comment on the DEIS and proposed rule. NMFS addressed this concern by stating that the current reporting systems can effectively monitor the recreational harvest of the stock using a combination of traditional intercept surveys, tournament reporting, and electronic reporting making the implementation of mandatory 24-hour reporting unnecessary at this time. NMFS' entire response to this concern can be found in response to comment 19 in the FEIS.
- The commenter restated previous comments provided during the scoping and proposed rule stages regarding concerns about the shortfin mako shark stock assessment including the methodology, science, and other countries catch data used. NMFS' responses to these concerns can be found in response to comments 1, 2, and 5 in the FEIS. NMFS addressed this concern by stating that the 2017 stock assessment was an improvement over previous assessments for shortfin mako sharks, and reflects the best scientific information available on the status of the stock.

CERTIFICATION

I certify that the Final Amendment 11 to the 2006 Consolidated HMS FMP and implementing final rule are consistent with the national standards and other provisions of the Magnuson-Stevens Act, and other applicable laws. Determinations supporting this finding are attached.

RECOMMENDATIONS

I recommend that you concur with this Record of Decision and Decision Memorandum, adopting it as the ROD completing the NEPA process, approving Final Amendment 11 to the 2006 Consolidated HMS FMP, and approving the final rule and its release for publication in the *Federal Register*. I also recommend that you sign the attached clearance memorandum to the NOAA General Counsel, and the attached clearance memorandum to the Chief Counsel for Regulation, Department of Commerce.

1. I concur. _____  _____ 2/15/19
Date

2. I do not concur. _____
Date

Attachments

DETERMINATIONS

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

NMFS prepared and published a final environmental impact statement (FEIS) fully evaluating the direct, indirect, and cumulative impacts of Amendment 11 to the 2006 Consolidated HMS FMP on the quality of the human environment. EPA published a Notice of Availability of the FEIS on December 21, 2018 (83 FR 65670). As described above, the FEIS contains a wide range of reasonable management alternatives, including the No Action alternative, and describes the ecological, economic, and social impacts expected for each alternative. NMFS concludes that all practical means to avoid, minimize, or compensate for environmental harm from this action have been included in the management alternatives. These measures discussed above will have conservation benefits and will mitigate economic impacts to the extent practicable given the requirements of the Magnuson-Stevens Act, ATCA, and other applicable law. NMFS provided several opportunities for meaningful public participation in the rulemaking process, considered and evaluated public comments, and responded to all comments, making responsive changes in the FEIS where appropriate. The DEIS, FEIS, and accompanying documents summarizing public comments were available to agency officials and decision makers throughout the NEPA process and were considered prior to signature on the ROD. The process for preparing the DEIS and FEIS and the contents and analyses in those documents satisfy the requirements of NEPA, the CEQ regulations, and NAO 216-6A and other relevant laws.

REGULATORY FLEXIBILITY ACT (RFA)

NMFS prepared an initial regulatory flexibility analysis (IRFA) at the draft stage of the EIS and proposed rulemaking. The entire IRFA was included in the DEIS and Draft Amendment 11 to the 2006 Consolidated HMS FMP. A final regulatory flexibility analysis (FRFA) was prepared, and a summary of the FRFA is contained in the final rule that accompanies this action. Each item in section 604(a)(1)-(5) of the RFA has been addressed in the classification section of the final rule. The entire FRFA was included in the FEIS and Final Amendment 11. NMFS received and considered several comments regarding the economic impacts of the selected alternatives during the comment period on the draft stage of this rulemaking. These are summarized in the FRFA in the FEIS for Amendment 11. NMFS has also prepared a Small Entity Compliance Guide that will be published separately from the final rule.

COASTAL ZONE MANAGEMENT ACT (CZMA)

Section 307(c)(1) of the Federal CZMA of 1972 (reauthorized in 1996) requires that all Federal activities that directly affect the coastal zone be consistent with approved state coastal zone management programs to the maximum extent practicable. NMFS has determined that this action is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management programs of coastal states on the Atlantic including the Gulf of Mexico and the Caribbean Sea. Pursuant to 15 CFR 930.41(a), NMFS sent letters to the Coastal Zone Management Program of each coastal state, and provided a 60-day period to review the

consistency determination and to advise the Agency of their concurrence. NMFS received responses that the proposed measures were consistent with the relevant coastal management plans from the states of Alabama, Delaware, Florida, Louisiana, Mississippi, New Hampshire, Rhode Island, South Carolina, Connecticut, New Jersey, and Virginia. No responses were received from the states of Connecticut, Maine, Maryland, Massachusetts, New York, Texas, North Carolina, Puerto Rico, and the U.S. Virgin Islands, and therefore consistency is being inferred.

The State of Georgia replied that the preferred alternatives in the proposed rule were mostly consistent with the enforceable policies of their state's Coastal Management Plans, with the exception of the preferred Alternative B9, which extends the recreational shark fishery circle hook requirement to the waters off the coasts of Massachusetts, New Hampshire, and Maine. Specifically, the State of Georgia stated that Alternative B9 was not consistent with its coastal management plan due to the questionable administration of the regulations by law enforcement officers and the unnecessary burden it will place on recreational anglers. However, currently, there is already a requirement for federal recreational shark fishermen to use circle hooks when targeting sharks off the coast of Georgia. This requirement was implemented as part of Amendment 5b to the 2006 Consolidated HMS FMP (April 4, 2017, 82 FR 16478). At that time, the State of Georgia replied that the measures in Amendment 5b were consistent with the enforceable policies of their state's CMP. As such, because the proposed circle hook requirement would not affect fishing in waters adjacent to Georgia state waters and because the State of Georgia indicated previously that the current circle hook requirement that is already in place is consistent, NMFS has determined that the measures in Amendment 11 are consistent to the maximum extent practicable with the enforceable policies of the State of Georgia.

PAPERWORK REDUCTION ACT (PRA)

This action does not contain a collection-of-information requirement for the purposes of the PRA.

ENDANGERED SPECIES ACT (ESA)

The environmental effects of the preferred alternatives in the FEIS are substantially the same as those analyzed in the DEIS, although one different alternative is now preferred and one other alternative was slightly modified. No additional or substantively different effects on species listed under the ESA are expected as a result of these changes. None of these measures are expected to result in any increase in interactions with endangered or threatened species or critical habitat.

On March 31, 2014, NMFS requested reinitiation of Section 7 consultation under the ESA on the Atlantic pelagic longline fishery. Despite sea turtle takes that were lower than specified in the ITS, leatherback mortality rates and total mortality levels had exceeded the level specified in the RPAs in the 2004 biological opinion. Additionally, new information has become available about leatherback and loggerhead sea turtle populations and sea turtle mortality. While the mortality

rate measure will be re-evaluated during consultation, the overall ability of the RPA to avoid jeopardy is not affected, and NMFS is continuing to comply with the terms and conditions of the RPA and RPMs pending completion of consultation. NMFS also has confirmed that there will be no irreversible or irretrievable commitment of resources that would foreclose the formulation or implementation of any reasonable and prudent alternative measures pending completion of consultation, consistent with section 7(d) of the Act.

On July 3, 2014, NMFS issued the final determination to list the Central and Southwest Atlantic Distinct Population Segment (DPS) of scalloped hammerhead shark (*Sphyrna lewini*) as threatened species pursuant to the ESA. On August 27, 2014, NMFS published a final rule to list the following 20 coral species as threatened: five in the Caribbean including Florida and the Gulf of Mexico (*Dendrogyra cylindrus*, *Orbicella annularis*, *O. faveolata*, *O. franksi*, and *Mycetophyllia ferox*); and 15 in the Indo-Pacific (*Acropora globiceps*, *A. jacquelineae*, *A. lokani*, *A. pharaonis*, *A. retusa*, *A. rudis*, *A. speciosa*, *A. tenella*, *Anacropora spinosa*, *Euphyllia paradivisa*, *Isopora crateriformis*, *Montipora australiensis*, *Pavona diffluens*, *Porites napopora*, and *Seriatopora aculeata*). Additionally, in that August 2014 rule, two species that had been previously listed as threatened (*A. cervicornis* and *A. palmata*) in the Caribbean were found to still warrant listing as threatened.

The Central and Southwest Atlantic DPS of scalloped hammerhead sharks and seven Caribbean species of corals have been determined to occur within the management area of Atlantic HMS fisheries. Therefore, on October 30, 2014, NMFS requested reinitiation of ESA Section 7 consultation on the continued operation and use of several HMS gear types (bandit gear, bottom longline, buoy gear, handline, and rod and reel) and associated fisheries management actions in the 2006 Consolidated HMS FMP and its amendments. These management actions were previously consulted on in the 2001 Atlantic HMS biological opinion and the 2012 Shark and Smoothhound biological opinion, to assess potential adverse effects of these gear types on the Central and Southwest DPS of scalloped hammerhead sharks and seven threatened coral species. NMFS has preliminarily determined that the ongoing operation 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 coral species.

With regard to the ongoing reinitiation of ESA Section 7 consultation on the Atlantic pelagic longline fishery, the effects of HMS fishery interactions with the Central and Southwest Atlantic DPS of scalloped hammerhead shark and the seven threatened coral species will be considered in the ongoing pelagic longline consultation. This will most effectively evaluate the effects of the pelagic longline fishery on all listed species in the action area.

MARINE MAMMAL PROTECTION ACT (MMPA)

I have determined that fishing activities conducted under this rule will have no adverse impact on marine mammals.

Although the pelagic longline fishery is considered a Category I fishery, with the high likelihood of serious injury or mortality to marine mammals, the actions implemented herein are not likely to produce additional adverse impacts to marine mammals that were not analyzed in the 2006 Consolidated HMS FMP. The FEIS for this final action analyzes potential management measures for pelagic longline, bottom longline, shark gillnet, and recreational handline and rod and reel gears and determined that these actions would not have an additional, detrimental effect on marine mammals than what was analyzed in the 2006 Consolidated HMS FMP. Consistent with the 2006 Consolidated HMS FMP, NMFS has implemented management measures imposing restrictions on fishing activities that are designed to minimize bycatch of marine mammals (*e.g.*, limited access permits, time/area closures, circle hook requirements, bait restrictions, careful release protocols, vessel monitoring system (VMS) requirements, authorized gears, and attendance at Protected Species Safe Handling, Release, and Identification workshops). In addition, measures in this final rule would be subject to all requirements of the Pelagic Longline Take Reduction Plan (May 19, 2009, 74 FR 23349). The Take Reduction Plan management measures were established to reduce serious injury and mortality of long-finned and short-finned pilot whales, and Risso's dolphins in the U.S. East Coast Atlantic pelagic longline fishery, and include a requirement to post a marine mammal handling placard, restrict pelagic longline mainline length to 20 nm in the Mid-Atlantic Bight area, and develop observer and research participation requirements to operate in the Cape Hatteras Special Research Area.

ADMINISTRATIVE PROCEDURE ACT (APA)

The need to implement these measures in a timely manner to reduce the risk of overfishing the shortfin mako shark resource constitutes good cause under authority contained in 5 U.S.C. 553(d)(3) to make the rule effective immediately upon publication in the *Federal Register*. Similar measures were originally implemented by emergency interim final rule under Section 305(c) of the Magnuson-Stevens Act, and have been in place for about 12 months, since March 2018. The emergency measures will expire on March 3, 2019, and a lapse in these measures would be confusing to the regulated community, complicate enforcement efforts, and potentially harm the long-term sustainability of the stock. If these measures are not implemented before the emergency rule expires, technically the management measures for the stock would revert to those pre-emergency rule. This means the recreational minimum size limit for shortfin mako sharks would revert to 54 inches FL, the use of circle hooks by recreational fishermen would not be a requirement across the range of the species stock, and commercial fishermen would no longer be required to release shortfin mako sharks that are alive at haulback. This would be confusing for the regulated community, which would then be required to switch to the new regulations only 30 days later. In the event of a short lapse between the emergency rule and implementation of this final rule, NMFS would notify the regulated community of the situation and encourage voluntary compliance with the emergency rule measures for consistency but compliance would not be assured. Thus, the need to implement these measures in a timely manner to reduce the risk of overfishing shortfin mako sharks, to avoid confusion for the regulated community, and to keep compliance obligations clear constitute good cause to make the rule effective immediately upon publication in the *Federal Register*. Furthermore, prior to the release of this final rule, on

December 14, 2018, NMFS published a notice of availability of the Final EIS supporting this action, thereby providing the public and affected entities prior notice of the final measures contained in this rule.

EXECUTIVE ORDER 12866 (E.O. 12866)

Pursuant to the procedures established to implement section 6 of E.O. 12866, the Office of Management and Budget has determined that this final rule is not significant.

EXECUTIVE ORDER 13132 (E.O. 13132)

This action does not contain policies with federalism implications under E.O. 13132.

ESSENTIAL FISH HABITAT (EFH)

The action in the context of the fishery as a whole would not have an adverse impact on EFH; therefore, an EFH consultation is not required. Ecological impacts to EFH due to actions in this amendment would likely be neutral and have no adverse effects as the preferred alternatives (modifying the commercial retention, increasing the minimum size limit and requiring the use of circle hooks when fishing recreationally for sharks, not changing the current reporting requirements, and developing an international rebuilding plan) would not have any impact on EFH.

Gears commonly used that would be impacted by this action include pelagic longline, bottom longline, shark gillnet, rod and reel, and handline gear. Amendment 1 to the 2006 Consolidated HMS FMP analyzed EFH impacts resulting from these gear types. Amendment 1 found that pelagic longline, shark gillnet, rod and reel, and handline gear do not typically interact with the sea floor; therefore, these gear types are unlikely to impact EFH. Shark bottom longlines do rest on the seafloor, but are mostly deployed on soft bottom (mud, sand) and only have temporary impacts. Amendment 10 to the 2006 Consolidated HMS FMP updated these analyses on Atlantic HMS fishing gear impacts on EFH, and found no new information that pelagic longline, bottom longline, shark gillnet, rod and reel, and handline gear would have negative impacts on EFH.

INFORMATION QUALITY ACT

Pursuant to Section 515 of Public Law 106-554 (IQA), this information product has undergone a pre-dissemination review by the HMS Management Division of the Office of Sustainable Fisheries on July 2, 2018. The signed Pre-dissemination Review and Documentation Form is on file in that Office and a copy of the form is included with this package. The final rule is substantially unchanged from the proposed rule and no new information has been developed or presented and considered, therefore, the IQA determination remains the same.