

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Endangered Species Act (ESA) allows interested persons to petition the Secretary of Commerce or the Secretary of Interior to add, remove or reclassify a species on the List of Endangered and Threatened Wildlife and to designate critical habitat. To the maximum extent practicable, the Secretary must make a finding within 90 days after receiving the petition on whether it presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. A final decision on the petitioned action must be made within one year of receipt of the petition.

Petition Received

On September 19, 1994, NMFS received a petition from the Edwards Manufacturing Company, Inc. to delist the shortnose sturgeon population in the Kennebec River system in Kennebec, Sagadahoc and Lincoln Counties, Maine. In support of their requested action, the petitioners cite research conducted on the Kennebec River system population over the last two decades and an initial population estimate averaging 10,000 adult shortnose sturgeon. Additionally, density data (shortnose sturgeon per hectare) reported from six river populations, including the Kennebec River system, is used to infer that the Kennebec River system is supporting a shortnose sturgeon population near carrying capacity.

Further, the petitioners reference a NMFS 1987 Status Review that states that the Kennebec River shortnose sturgeon population is no longer in danger of extinction and recommends that the population be removed from the list of threatened and endangered species under the ESA. This recommendation was based on the best information available at that time, and considered all of the listing/delisting factors specified in the ESA.

Using the best available information, NMFS will assess the status of the shortnose sturgeon throughout its range, including the Kennebec River system. In making a final determination on whether the petitioned action is warranted, NMFS will consult the shortnose sturgeon recovery team and other sturgeon biology and population dynamics experts and will verify the findings and recommendations contained in this petition and the NMFS 1987 status review.

Information Solicited

To ensure that the review is complete and based on the best available scientific and commercial data, NMFS is soliciting from any interested person information concerning the status of shortnose sturgeon in the Kennebec River system. Data, information and comments should include (1) supporting documentation such as sighting dates and locations (preferably accompanied by maps) and (2) the commentors name, address, and association, institution, or business.

Dated: December 29, 1994.

Ann D. Terbush,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95-275 Filed 1-5-95; 8:45 am]

BILLING CODE 3510-22-F

50 CFR Part 678

[Docket No. 941261-4361; I.D. 121494A]

RIN 0648-AF63

Atlantic Shark Fisheries; Quotas

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule which would establish the semiannual commercial quotas for Atlantic large coastal sharks, and Atlantic pelagic sharks, under the framework provisions of the Fishery Management Plan for Sharks of the Atlantic Ocean (FMP), at 1994 levels. These quotas would apply to permitted vessels for 1995 and, unless adjusted, for future years. This proposed rule is intended to prevent overfishing of shark stocks.

DATES: Written comments on this proposed rule are invited and must be received on or before January 30, 1995.

ADDRESSES: Comments on the proposed rule should be sent to Richard B. Stone, Chief, Highly Migratory Species Management Division, Office of Fisheries Conservation and Management (F/CM), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Clearly indicate "Atlantic Shark Comments" on the envelope. Comments may also be sent by FAX to 301-713-0596. Requests for copies of an environmental assessment and regulatory impact review (EA/RIR) should be sent to Richard B. Stone or C. Michael Bailey at the same address.

FOR FURTHER INFORMATION CONTACT: C. Michael Bailey, 301-713-2347, FAX 301-713-0596; Michael E. Justen, 813-570-5305 or Kevin B. Foster, 508-281-9260.

SUPPLEMENTARY INFORMATION: The fishery for Atlantic sharks is managed under the FMP prepared by NMFS under authority of Section 304(f)(3) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), and implemented in April 1993 through regulations found at 50 CFR part 678.

In October and November 1994, NMFS held a series of public scoping meetings to receive comments from fishery participants and other members of the public regarding issues of concern in the Atlantic shark fishery. In addition, NMFS solicited written comments as part of the scoping process, including consideration of adjustments to the quota for Atlantic large coastal and pelagic sharks.

The 1994 Atlantic Large Coastal Shark Fishery

The January-through-June semiannual quota was projected to be reached on May 17 and the fishery was closed; however, the quota was actually underharvested by 33 mt. The quota for July through December was adjusted for the underharvest for a total of 1318 mt. The commercial large coastal shark fishery was closed August 10 based on projected landings, but the quota was underharvested by 657 mt due to bad weather and other factors in the two weeks prior to August 10. The fishery reopened on September 1 to allow the underharvest to be taken and was closed on November 5, 1994.

The 1994 Evaluation of TAC

During preparation of the FMP, NMFS determined that stocks of Atlantic large coastal sharks were below the level required to produce the maximum sustainable yield (MSY). Accordingly, NMFS included a Recovery Plan in the FMP designed to rebuild the resource to the MSY level, with annual total allowable catch (TAC) increasing as the rebuilding program progressed. However, because MSY, stock levels needed to produce MSY, and resource productivity were only uncertain estimates, the FMP calls for an annual evaluation of relevant fishery information including current stock status, current landings, maximum sustainable yield, and information on which to base TAC.

As required by the FMP, an annual shark evaluation workshop (SEW) was held in March 1994 to assess the status of the stocks. The SEW concluded that available information neither supported

the increase for the 1994 TAC from 1993 levels nor supported increasing the 1995 TAC as was otherwise anticipated and scheduled in the FMP. Three significant factors were found to alter previous perceptions of the status of large coastal sharks: (1) Catch per unit effort (CPUE) statistics extending further back in time than were used to prepare the FMP, indicating that the resource has declined further than previously estimated; (2) new estimates of life history characteristics such as age at maturity and maximum longevity indicating that the productivity of some key species may be much lower than previously assumed; and (3) updated CPUE statistics giving no indication of rebuilding to date.

CPUE data since 1991 are too few and too variable to indicate with any statistical confidence whether stocks are increasing or decreasing under current TAC levels. However, other information (stock sizes substantially below MSY levels, low productivity, and increased landings prior to implementation of the FMP) suggests that the rapid recovery assumed in the FMP is unlikely. The 1994 SEW suggested that recovery to the levels of the 1970's could take as long as 30 years. Given the reproductive profiles of sharks and the general insufficiency of fishery data upon which to base analyses, the 1994 SEW concluded that "increas[ing] the TAC for sharks [is] considered risk-prone with respect to promoting stock recovery" and that allowing "any TAC might be considered risk-prone * * *." The SEW recommended that the 1995 quota be set at 1993 levels.

Shark Operations Team

The Shark Operations Team met to review the findings of the SEW with the individual members supporting maintaining quotas at 1994 levels.

Large Coastal and Pelagic Shark Quotas

The framework provisions of the FMP allow the Assistant Administrator for Fisheries, NOAA (AA), to make adjustments in the management measures in order to achieve the objectives of the FMP.

The AA proposes to set the commercial quota for the large coastals group for 1995 at the 1994 level—2,570 mt. This, in the opinion of the AA, represents a reasonable compromise between the various alternatives ranging from a complete closure of the fishery to a quota increase. This alternative conforms to the objectives of the shark FMP in that it facilitates shark resource data collection, research, and monitoring and increases the benefits

from shark resources to the United States while reducing waste.

While the 1994 SEW focused on the large coastal species group, declining CPUE and life history characteristics indicating low productivity for pelagics and small coastals also suggest that a prudent approach is warranted for these groups. No new analyses were presented upon which to modify MSY or TAC of the pelagic and small coastal sharks. Accordingly, the AA proposes to set commercial quotas for pelagic sharks for 1995 at the 1994 level—580 mt. At present, no quota has been established for the small coastal species group. When analyses are presented, the AA will propose an appropriate quota for small coastal sharks.

NMFS is also proposing to remove the specification of the year from portions of the regulatory text referring to quotas. Thus, if a change in quota level from a previous year is not justified, a change in the regulatory text would not be necessary to continue that level for the new year.

Comments and Responses

Agency responses to comments received during the scoping process are summarized below.

Commercial Quotas

Comment: Conservation organizations, commercial shark fishing interests, incidental commercial shark fishing interests, recreational fishing interests, and individuals provided written comments on the proposed adjustment to commercial quotas. Some commenters suggested that commercial quotas should be allowed to increase as scheduled in the FMP, some commenters suggested maintaining the current quota until additional data on the status of the stocks could be evaluated, some commenters suggested significant quota reductions, and others suggested a closure of the fishery until stocks recover.

Response: NMFS has examined the four possible commercial quota options and, as is discussed above, is proposing to set the TAC for 1995 at the 1994 level. An SEW will be held in 1995 to reexamine the status of the stocks and to recommend any adjustments for 1996.

Other Comments

Comment: NMFS received a number of other comments during the scoping process, including species identification concerns, possible creation of a new sub-grouping of fast growing large coastal sharks that share similar life histories, medium- and long-term measures to address the rapid expansion

in the number of permit holders (e.g., moratorium and individual quotas), tiered permit system (e.g. directed, bycatch, and angler catch), further division of the quota into 4 periods in lieu of the existing 2 periods, regional sub-quotas for large coastal sharks, area/season closures for sharks (e.g., nursery/pupping grounds), modifications in the fin/carcass ratio, and changes in the recreational fishery bag limit.

Response: This proposed rule addresses only the commercial quotas for large coastal and pelagic sharks. This is immediately necessary because specification of commercial quotas expires as of December 31, 1994. However, other issues raised in the scoping process may be addressed in future rulemakings.

Classification

The AA has determined that this rule is necessary for conservation and management of shark resources in the Atlantic Ocean and is consistent with the national standards and other provisions of the Magnuson Act, and other applicable law. This proposed rule is exempt from review under E.O. 12866. The quotas proposed for 1995 are within the range analyzed in the Regulatory Flexibility Analysis (RFA) included in the Regulatory Impact Review prepared for the FMP and no new RFA has been prepared.

List of Subjects in 50 CFR Part 678

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 29, 1994.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 678 is proposed to be amended as follows:

PART 678—ATLANTIC SHARKS

1. The authority citation for part 678 continues to read as follows:

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

2. Section 678.24, paragraph (b), is revised to read as follows:

§ 678.24 Commercial quotas.

* * * * *

(b) *Semiannual quotas.* The following commercial quotas apply:

(1) For the period January 1 through June 30:

(i) Large coastal species—1,285 metric tons, dressed weight.

(ii) Pelagic species—290 metric tons, dressed weight.

(2) For the period July 1 through December 31:

(i) Large coastal species—1,285 metric tons, dressed weight.

(ii) Pelagic species—290 metric tons, dressed weight.

* * * * *

[FR Doc. 94-32343 Filed 12-30-94; 3:34 pm]

BILLING CODE 3510-22-F