

NOAA Fisheries Announces Emergency Regulations to Address Overfishing of North Atlantic Shortfin Mako Sharks

NOAA’s National Marine Fisheries Service (NOAA Fisheries) announces an interim final rule to adopt internationally recommended management measures in the Atlantic highly migratory species (HMS) fisheries. The emergency rule implements management measures to address overfishing of North Atlantic shortfin mako sharks. These measures are based on the International Commission for the Conservation of Atlantic Tuna's (ICCAT’s) Standing Committee for Research and Statistics (SCRS) benchmark stock assessment for North Atlantic shortfin mako sharks, which found the stock to be overfished with overfishing occurring.

Who is affected?

- Any commercial fishermen with HMS permits who interacts with shortfin mako sharks.
- Any recreational fishermen who catches or targets shortfin mako sharks.
- Any tournament that has a prize category for shortfin mako sharks.
- Any dealers who buys or sells shortfin mako sharks or products.

What are the measures?

Commercial Measures
<i>Live release of shortfin mako sharks in the commercial pelagic longline fishery, no landings of shortfin mako sharks by fishermen using other commercial gear types.</i>
<p>The recommendation requires the release of all shortfin mako sharks in a manner that causes the least harm, while giving due consideration to the safety of crew members. Therefore, this emergency rule implements the following measures.</p> <ol style="list-style-type: none"> 1. Fishermen using pelagic longline gear (who are already required to have a functional electronic monitoring system) <ol style="list-style-type: none"> a. Release all live shortfin mako sharks with a minimum of harm, while giving due consideration to the safety of crew members and b. Retain a shortfin mako shark only if it is dead at haulback. 2. Fishermen using non-pelagic longline commercial gear (e.g., bottom longline, gillnet, handgear, etc) must release all shortfin sharks, alive or dead, with a minimum of harm, while giving due consideration to the safety of crew members.
Recreational Measures
<i>Recreational minimum size limit of 83 inches (210 cm) FL for shortfin mako sharks.</i>
<p>The recommendation requires the release of all shortfin mako sharks in a manner that causes the least harm, while giving due consideration to the safety of crew members. Therefore, this emergency rule implements the following measures.</p> <ol style="list-style-type: none"> 1. Fishermen that hold an HMS Angling or Charter/Headboat permits, and fishermen that hold Atlantic Tunas General category and Swordfish General Commercial permits when participating in a registered HMS tournament are encouraged to practice catch and release of all shortfin mako sharks. 2. Fishermen that hold the above permits may only land a shortfin mako shark (male or female) if the shark meets the following minimum size: 83 inches (210 cm) FL.

NOAA Fisheries has been promoting the live release of shortfin mako sharks since 2013 through the "Release Mako" app. It is a free app for mobile devices that allows fishermen to share information about releasing North Atlantic shortfin mako sharks. Download the free [Release Mako app](#).

When will this happen?

Measures are immediately effective on March 2, 2018. These measures are effective for up to 180 days from publication of the emergency rule, with a possible extension of up to 186 days, but are expected to be replaced by measures being considered in a proposed and final regulatory amendment currently under development.

Is there an Environmental Assessment for this emergency rule?

Yes. The Environmental Assessment for the emergency rule is available on the [HMS website](#).

Can I comment on this emergency rule?

Yes. Written comments may be submitted by **May 7, 2018**, to the HMS Management Division by either of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0010, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to NMFS, Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910. Mark the outside of the envelope "Comments on Atlantic Shortfin Mako Emergency Rule."

Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA Fisheries. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NOAA Fisheries will accept anonymous comments (enter "N/ A" in the required fields if you wish to remain anonymous).

During the comment period, NOAA Fisheries will hold one public hearing for this interim final rule.

Public Hearing – March 7, 2018 from 11:00 a.m. – 12:15 p.m.

HMS Advisory Panel Meeting
Sheraton Silver Spring
8777 Georgia Avenue
Silver Spring, MD 20910

This notice is a courtesy to Atlantic HMS fishery participants to help keep you informed about the fisheries. For further information on these emergency measures, contact the HMS Management Division at (301) 427-8503 or visit the [HMS website](#).

NOAA Fisheries Requests Comments on Options to Address Overfishing of North Atlantic Shortfin Mako Sharks

March 1, 2018

NOAA's National Marine Fisheries Service (NOAA Fisheries) announces its intent to prepare an Environmental Impact Statement (EIS) and Fishery Management Plan (FMP) Amendment to comply with International Commission for the Conservation of Atlantic Tuna (ICCAT) Recommendation 17-08 and address overfishing and establish the foundation for a rebuilding plan for North Atlantic shortfin mako sharks. The measures initially will be implemented through an interim final rule, under the emergency rulemaking authority of section 305(c) of the Magnuson-Stevens Conservation and Management Act (Magnuson-Stevens Act), and the Atlantic Tunas Convention Act (ATCA), 16 U.S.C. 971 et seq. Since the interim final rule may only be effective for up to 366 days, NOAA Fisheries is developing a regulatory amendment to the 2006 Consolidated HMS Fishery Management Plan that will consider and evaluate conservation and management options to address overfishing and to establish a foundation for a rebuilding plan the North Atlantic shortfin mako shark stock when the interim rule has expired.

NOAA Fisheries announces the scoping phase of this rulemaking process. NOAA Fisheries has drafted an issues and options document that summarizes the North Atlantic shortfin mako shark stock assessment and the ICCAT recommendation and offers preliminary ideas on potential management approaches to address overfishing on the stock in order to encourage and initiate public comment. NOAA Fisheries has scheduled the following scoping meetings and conference call to take public comment.

- **Public Scoping Meeting** – March 15, 2018 from 4:00 – 8:00 p.m.
National Marine Fisheries Service
Southeast Fisheries Science Center
3500 Delwood Beach Road
Panama City, FL 32408
- **Public Scoping Meeting** – March 21, 2018 from 4:00 – 8:00 p.m.
Commissioners Meeting Room
Dare County Administration Building
954 Marshall C. Collins Dr.
Manteo, NC 27954
- **Conference Call Scoping Meeting** – April 4, 2018 from 2:00 – 4:00 p.m.
To participate in the conference call, please call: (800) 779-3136
Passcode: 9421185

To participate in the webinar, RSVP at:
<https://noaaevents2.webex.com/noaaevents2/onstage/g.php?MTID=e0e45a6863a2dec162452b2b6240ef3e3>, A confirmation email with webinar log-in information will be sent after RSVP is registered.

- **Public Scoping Meeting** – April 11, 2018 from 4:00 – 8:00 p.m.
Little Egg Harbor Branch Public Library
290 Mathistown Road
Little Egg Harbor, NJ 08087
- **Public Scoping Meeting** – April 19, 2018 from 5:00 – 8:00 p.m.
National Marine Fisheries Service
Grater Atlantic Regional Office
55 Great Republic Dr.
Gloucester, MA 01930

Because the rulemakings overlap for some gear types, the public scoping meetings being held in Panama City, FL, Manteo, NC, and Manahawkin, NJ will be held in conjunction with public scoping meetings for pelagic longline bluefin tuna area-based and weak hook management. The shortfin mako shark management measure presentation will likely be given first unless polling of the audience indicates another approach is appropriate. After each presentation, public comment for that issue will be received. Meeting attendees interested in this issue are encouraged to show up at the beginning of the meeting to help determine the order of the presentations. The second presentation will not start any later than 6 pm.

In addition to the four scoping meetings and conference call, NOAA Fisheries has requested to present the issues and options presentation to the five Atlantic Regional Fishery Management Councils (the New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, and Caribbean Fishery Management Councils) and the Atlantic and Gulf States Marine Fisheries Commissions during the public comment period. Please see the Councils' and Commissions' spring meeting notices for times and locations. NOAA Fisheries welcomes additional thoughts and comments on appropriate management measures. The issues and options document is available on the [HMS website](#).

Specifically, NOAA Fisheries requests comments on commercial management options including, but not limited to, the ICCAT recommendations, quota levels, electronic monitoring, minimum sizes, retention restrictions, and prohibited species. In addition, NOAA Fisheries is seeking comments on recreational management options including, but not limited to, retention limits and restrictions, minimum sizes, gear modifications, landings restrictions and prohibited species. NOAA Fisheries also seeks comments on recreational monitoring requirements and the rebuilding program options for shortfin mako sharks. Comments received during scoping will assist NOAA Fisheries in determining the options for future proposed rulemaking to conserve and manage shark resources and shark fisheries, consistent with the Magnuson-Stevens Act and other applicable laws.

Submit Comments by May 7, 2018:

Written comments, identified by “NOAA-NMFS-2018-0011”, may be submitted electronically via the [Federal eRulemaking Portal](#), or mail to the contact information included below. All comments received are a part of the public record and will generally be posted to [Federal eRulemaking Portal](#) without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NOAA Fisheries will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

This notice is a courtesy to Atlantic HMS fishery participants to help keep you informed about the fisheries. For further information on these emergency measures, contact the HMS Management Division at (301) 427-8503 or visit the [HMS website](#).

Issues and Options for

Amendment 11 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan

March 2018

Highly Migratory Species Management Division
Office of Sustainable Fisheries
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, Maryland 20910



1 Introduction

The National Marine Fisheries Service (NMFS) intends to amend the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP) (Consolidated HMS FMP) to address overfishing of the North Atlantic shortfin mako shark. This document examines potential management options to address overfishing of and begin rebuilding the North Atlantic shortfin mako stock and also requests additional information and input from consulting parties and the public prior to development of a formal Draft Environmental Impact Statement (DEIS) and proposed rule. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires NMFS to “consult with and consider the comments and views of affected Councils, commissions and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species, and the [HMS] advisory panel in preparing and implementing any fishery management plan or amendment.” Therefore, we are starting our scoping stage and requesting comments and views on this Issues and Options document for Amendment 11 to the 2006 Consolidated Atlantic HMS FMP by May 7, 2018. An electronic version of this document is available on the HMS Management Division website at: <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species>.

In August 2017, the International Commission for the Conservation of Atlantic Tunas (ICCAT) Standing Committee on Research and Statistics (SCRS) conducted a new benchmark stock assessment on the North Atlantic shortfin mako shark stock. In November 2017 at its annual meeting, ICCAT accepted this stock assessment and its results, which indicated that the stock was overfished with overfishing occurring. On December 13, 2017, based on the results of this assessment, NMFS also determined the stock to be overfished with overfishing occurring. Based on the stock assessment, ICCAT adopted new management measures for shortfin mako (Recommendation 17-08), which the United States must implement as necessary and appropriate under the Atlantic Tunas Convention Act (ATCA). NMFS initially implemented these measures through an interim final rule using emergency Magnuson-Stevens Act authority to temporarily and immediately implement commercial and recreational measures. In 2018, ICCAT will review the catches from the first six months of 2018 and decide whether the measures contained in Recommendation 17-08 should be modified. Without implementing the interim final rule, the reported U.S. catch data for the first half of 2018 would reflect catches under the existing management practices, and thus not reflect the true potential of the new measures at addressing overfishing. Any resulting action by ICCAT based on such incomplete information could disadvantage U.S. fishermen. For more details on the stock assessment and recommendation, please refer to the ICCAT website at <http://www.iccat.int/>.

NMFS is developing Amendment 11 to the 2006 Consolidated Atlantic HMS FMP (Amendment 11) in response to the ICCAT Recommendation and the stock status determination. NMFS anticipates that the proposed rule and DEIS will be available in mid-2018 and the Final Amendment 11 and its related documents will be available in Spring 2019. NMFS requests receipt of any comments on this scoping document by May 7, 2018.

Any written comments on this document should be submitted to Guý DuBeck, HMS Management Division, F/SF1, Office of Sustainable Fisheries, 1315 East West Highway, Silver Spring, MD 20910 or via the Federal e-Rulemaking Portal (www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0011) by May 7, 2018. For further information, contact Guý DuBeck or Karyl Brewster-Geisz at (301) 427-8503.

This document includes a summary of the anticipated purpose and need (Chapter 1) of the FMP amendment and tables summarizing the potential environmental, social, and economic impacts of conservation and management options that NMFS is considering at this time (Chapter 2). The options outlined in Chapter 2 may be modified, removed, or supplemented based on any comments received, additional analyses, and other factors, as appropriate.

NMFS specifically solicits opinions and advice on the potential range of options and whether there are additional options that should be addressed and considered in the rulemaking process. Additionally, NMFS solicits opinions and advice on the impacts described for each option.

1.1 Management History

Atlantic HMS fisheries are managed under the dual authority of the Magnuson-Stevens Act and ATCA. HMS fisheries require management at the international, national, and state levels because of the highly migratory nature of the species. NMFS manages HMS fisheries in federal waters (domestic) and the high seas (international), while individual states establish regulations for some HMS in their own waters. However, there are exceptions to this generalization. For example, as a condition of their permit, federally-permitted HMS fishermen are required to follow federal regulations in all waters, including state waters, unless the state has more restrictive regulations, in which case the state laws prevail. Additionally, in 2005, the Atlantic States Marine Fisheries Commission (ASMFC) agreed to develop an interstate coastal shark FMP. This interstate FMP coordinates management measures among all states along the Atlantic coast (Florida to Maine). NMFS participated in the development of this interstate shark FMP, which went into effect in 2010.

On the international level, NMFS participates in the stock assessments conducted by the SCRS and in the annual ICCAT meetings. NMFS implements conservation and management measures adopted through ICCAT and through other relevant international agreements, consistent with specific domestic implementing legislation. ICCAT has assessed the Atlantic blue and the shortfin mako shark stocks, participated with the International Council for the Exploration of the Sea (ICES) on a joint porbeagle assessment, and has conducted several ecosystem risk assessments for various shark species, among other things. Stock assessments and management recommendations or resolutions are listed on ICCAT's website at <http://www.iccat.int>. As described below, in recent years ICCAT has adopted several shark-specific recommendations, to address sharks caught in association with ICCAT fisheries.

NMFS manages sharks domestically through the 2006 Consolidated HMS FMP and its amendments, along with other Atlantic HMS. For more information on the complete HMS

management history as it relates to sharks, please refer to the 2006 Consolidated HMS FMP and Amendments 2, 3, 5a, 5b, 6, 9, and 10, which address shark conservation and management. Relevant proposed rules, final rules, and other official notices, along with supporting documents including the original FMPs, can be found on the HMS Management Division’s webpage at <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species>. Documents can also be requested by calling the HMS Management Division at (301) 427-8503.

1.2 Shortfin Mako Shark Stock Assessment

ICCAT’s SCRS has assessed blue, shortfin mako, and porbeagle sharks. All SCRS final stock assessment reports can be found at www.iccat.int/en/assess.htm. The shortfin mako ICCAT SCRS report from 2017 can be found at http://iccat.int/Documents/Meetings/Docs/2017_SCRS_REP_ENG.pdf

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, updated length composition data, and new tagging data. One of the primary changes in data for the new stock assessment was a new estimate of the fishing mortality rate largely derived from satellite tagging research (Byrne et al. 2017). For this research, 40 shortfin mako sharks were tagged and then tracked in the North Atlantic between 2013 and 2016 for periods of 81-754 days. Of these tagged sharks, 12 (30 percent) were captured by fishing vessels (Figure 1). These direct observations of mortality resulted in fishing mortality rate estimates of 0.19-0.53, which are significantly higher than the estimates of 0.015-0.024 used in previous assessments (SCRS 2012).

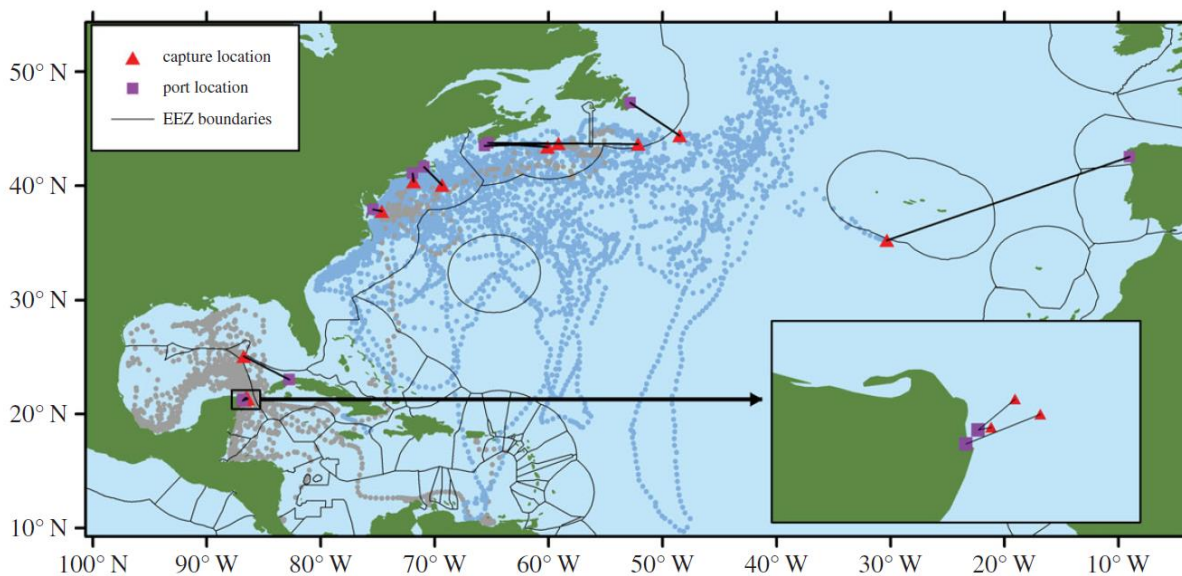


Figure 1. Tracks (dots) and capture locations (triangles) of 40 satellite tagged shortfin mako sharks from Byrne et al. (2017).

In November 2017 at its annual meeting, ICCAT accepted this stock assessment and its results, which determined that the stock was overfished with overfishing occurring applying ICCAT criteria. On December 13, 2017, based on the results of this assessment, NMFS determined the stock to be overfished with overfishing occurring. 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 (Figure 2).

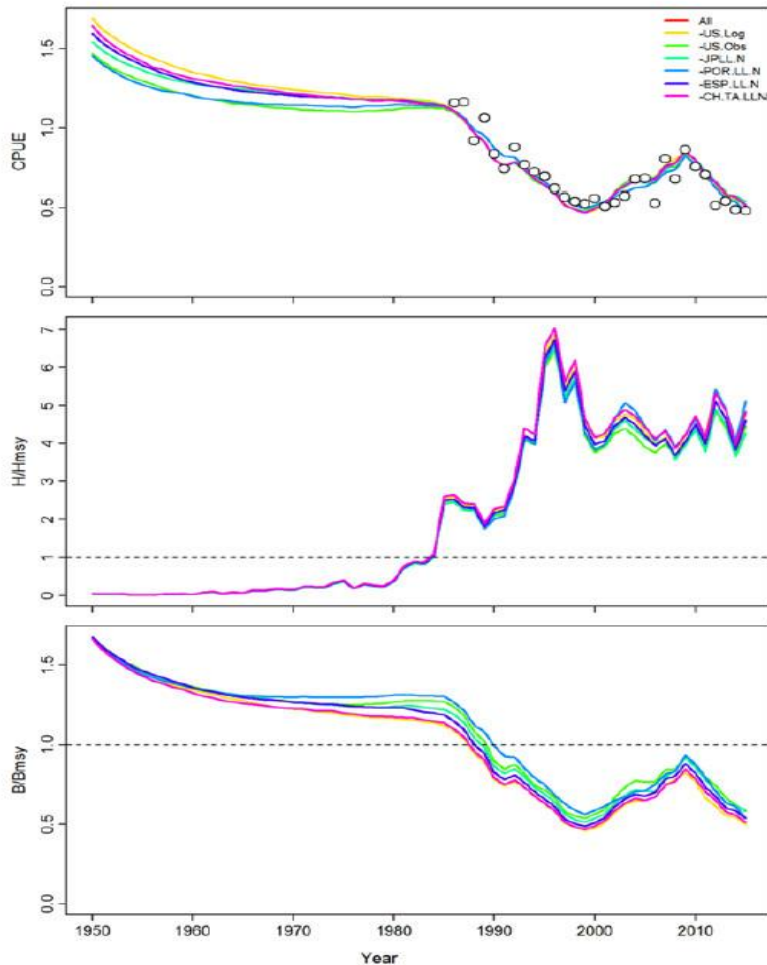


Figure 2. Trends in North Atlantic shortfin mako shark CPUE, F/F_{MSY} , and B/B_{MSY} using the C1 catch scenario used in the 2017 stock assessment. Circles denote US pelagic longline CPUE.

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 reductions) 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. Research indicates that post-release survival rates of shortfin mako sharks are high (70 percent); however, the assessment could not determine if requiring live releases alone would reduce landings sufficiently to end overfishing and rebuild the stock.

1.3 ICCAT Recommendation 17-08

In November 2017, as a result of the most recent stock assessment, ICCAT adopted Recommendation 17-08 requiring new commercial and recreational management measures for shortfin mako sharks, which the United States must implement under the Atlantic Tunas Convention Act. The recommendation requires the release of all shortfin mako sharks in a manner that causes the least harm, while giving due consideration to the safety of crew members. Under the commercial measures, fishermen using pelagic longline gear must release all live shortfin mako sharks and can retain a shortfin mako shark only if it is dead at haulback and either an observer or functioning electronic monitoring system are on board. Under the recreational measures, fishermen that hold an HMS Angling or HMS Charter/Headboat permit, and fishermen that hold Atlantic Tunas General category and/or Swordfish General Commercial permits when participating in a registered HMS tournament, and who choose to land a shortfin mako shark can only land – at a minimum – males at least 71 inches (180 cm) FL and females at least 83 inches (210 cm) FL. For more details on the recommendation, please refer to the ICCAT website at <http://www.iccat.int/>.

1.4 Purpose, Need, and Objectives

The purpose of Amendment 11 is to develop and implement management measures that would address overfishing and will take steps towards rebuilding the North Atlantic shortfin mako shark stock. This action is consistent with ICCAT Recommendation 17-08, and U.S. responsibilities under ATCA and the Magnuson-Stevens Act.

The need of Amendment 11 is to implement management measures consistent with the requirements of ATCA, the Magnuson-Stevens Act, and other statutes. On December 13, 2017, NMFS determined that North Atlantic shortfin mako sharks are overfished with overfishing occurring. NMFS, as required by Magnuson-Stevens Act on behalf of the Secretary, must take action to end overfishing immediately and to implement conservation and management measures to rebuild overfished stocks within two years of making this determination. To address overfishing and to ensure that timely data is provided to ICCAT under a provision in Recommendation 17-08, an interim final rule was published to implement management measures for North Atlantic shortfin mako sharks based on the measures in the ICCAT Recommendation, and using NMFS' authority to issue emergency regulations under the Magnuson-Stevens Act. Under this authority, temporary regulations may remain in effect for no more than 180 days, but may be extended for an additional 186 days as described in section 305(c) of the Magnuson-Stevens Act. Since the emergency rule may only be effective for up to 366 days, NMFS is developing an amendment to the 2006 Consolidated Atlantic HMS Fishery Management Plan that will consider and evaluate the measures in ICCAT Recommendation 17-08 and additional management options to address overfishing and to establish a foundation for rebuilding the North

Atlantic shortfin mako shark stock. This amendment is expected to be implemented prior to the expiration of the emergency rule. This Issues and Options paper is part of the scoping process for that FMP amendment and associated rulemaking.

The goal of this issues and options document is to examine potential management options to address overfishing of and take steps toward rebuilding the Atlantic shortfin mako stock, and to request additional information and input from consulting parties and the public, prior to development of a DEIS and proposed rule.

Objectives: To achieve the purpose and address the need for acting, NMFS would implement management measures to address overfishing and take steps toward rebuilding the stock. More specifically, NMFS has identified the following objectives with regard to this proposed action:

- Address overfishing of shortfin mako sharks;
- Develop and implement management measures consistent with the ICCAT Recommendation 17-08; and
- Take steps towards rebuilding the shortfin mako shark stock.