

Amendment 5b to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan

The National Marine Fisheries Service (NMFS) is considering management measures that would end overfishing and rebuild the overfished Atlantic dusky shark stock.

Atlantic highly migratory species (HMS) are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act. Under the Magnuson-Stevens Act, NMFS must manage fisheries to maintain optimum yield on a continuing basis while preventing overfishing. Under the Atlantic Tunas Convention Act (ATCA), NMFS is authorized to promulgate regulations, as may be necessary and appropriate, to implement the recommendations from the International Commission for the Conservation of Atlantic Tunas (ICCAT). The measures proposed in this amendment and associated rulemaking are taken under the authority of the Magnuson-Stevens Act and consistent with ATCA. Currently, Atlantic sharks, tunas, swordfish, and billfish are managed under the 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP), and its amendments.

NMFS made a stock status determination for dusky sharks as overfished with overfishing occurring after the stock was assessed in the 2010/2011 benchmark stock assessment (SEDAR 21), and announced its intent to prepare an Environmental Impact Statement (EIS) for Amendment 5 to the 2006 Atlantic Consolidated HMS FMP (Amendment 5) (76 FR 62331; October 7, 2011) to address conservation and management of dusky sharks and other Atlantic shark stocks. NMFS considered alternatives for conservation and management measures to end overfishing of and rebuild dusky sharks in Draft Amendment 5 (77 FR 70552, November 26, 2012). NMFS received substantial public comment questioning the bases for and impacts of the dusky shark measures and determined that additional analyses were needed before undertaking measures pertaining to dusky sharks. NMFS then finalized the management measures for the other Atlantic shark species included in Draft Amendment 5 in the Final Amendment 5a and associated final rule (78 FR 40318, July 3, 2013), while dusky shark management measures would be included in a separate rulemaking known as Amendment 5b.

NMFS released a Predraft for Amendment 5b that considered the feedback received on those initial proposals in Draft Amendment 5 and solicited additional public input and consulted with its HMS Advisory Panel at the Spring 2014 meeting (see http://www.nmfs.noaa.gov/sfa/hms/documents/fmp/am5/predraft/a5b_predraft_03-28-14.pdf). The Predraft included alternatives that were beyond the scope of the original proposals as well as new information. In 2014, additional new information regarding dusky sharks was compiled in a comprehensive Endangered Species Act Status Review that was undertaken in response to petitions to list the Northwest Atlantic and Gulf of Mexico population of dusky shark under the Endangered Species Act (<http://www.fisheries.noaa.gov/pr/species/fish/dusky-shark.html>; 79 FR 74954, December 16, 2014).

Subsequently, in September 2016, an update to the 2010/2011 SEDAR 21 dusky shark stock assessment was completed through the SEDAR process using the most recent time series data

through 2015 (<http://sedarweb.org/sedar-21>). NMFS made a stock status determination in October 2016 that the stock remains overfished with overfishing occurring.

In this document, we consider a reasonable range of alternative management measures to end overfishing and rebuild the dusky shark stock, including: modifying the recreational permitting process and increasing outreach and education; requiring the use of circle hooks by recreational shark fishermen; requiring the use of circle hooks in recreational shark tournaments; modifying the size limit for recreational shark fishing; prohibiting recreational retention of ridgeback sharks; prohibiting retention of all sharks; requiring NMFS-approved shark placards on recreational vessels; establishing protocols for releasing sharks in the pelagic longline fishery; limiting the number of hooks per pelagic longline set; requiring circle hooks in the shark bottom longline fishery; restricting areas to pelagic longline gear; extending a bottom longline time/area closure; closing the Atlantic HMS pelagic longline fishery; establishing individual dusky shark bycatch quotas; and additional outreach and educational training programs. Additionally, we clarify the annual catch limits (ACLs) and accountability measures (AMs) for all prohibited shark species, including dusky sharks.

Consistent with the regulations published by the Council on Environmental Quality, 40 C.F.R. 1501-1508 (CEQ Regulations), we have identified our preferred alternatives. A full description and analysis of the different alternatives can be found in Chapters 2.0 and 4.0 of this document. We have identified preferred alternatives that will, consistent with the Magnuson-Stevens Act and other domestic laws, rebuild and end overfishing of dusky sharks, balance the needs of the fishermen and communities with the needs of the resource, and maximize sustainable fishing opportunities. The list of preferred alternatives can be found below (Table 0.1); the list of the full range of alternatives considered can be found in Chapter 2.0. We will thoroughly consider public comment before finalizing any alternatives, and the proposed measures may be altered or different alternatives adopted at the final rule stage. The CEQ regulations direct Federal agencies to the full extent possible to integrate the requirements of the National Environmental Policy Act with other planning and environmental review procedures required by law or by agency practice so that all procedures run concurrently rather than consecutively. To that end, this document integrates the Draft Environmental Impact Statement (DEIS) required by the National Environmental Policy Act with the fisheries planning and management requirements associated with proposed amendment to a FMP under the Magnuson-Stevens Act, the Initial Regulatory Flexibility Analysis required under the Regulatory Flexibility Act, 5 U.S.C. §§601-603; and the Regulatory Impact Review prepared in accordance with Executive Order 12866, “Regulatory Planning and Review.”

Table 0.1 The preferred alternatives in the DEIS for Amendment 5b to the 2006 Consolidated HMS FMP

Recreational Measures	Preferred Alternatives in DEIS
Permit Requirements and Outreach	<i>Alternative A2</i> Require HMS permit holders fishing for sharks recreationally to obtain a shark endorsement, which requires completion of an online shark identification and fishing regulation training course, plus additional recreational fisheries outreach.
Circle Hook Requirement	<i>Alternative A6a</i> Require the use of circle hooks by all HMS permit holders fishing for sharks recreationally and when using natural baits and using wire or heavy (200 lb or greater test) monofilament or fluorocarbon leaders.
Commercial Measures	Preferred Alternatives in DEIS
Shark Release Protocol	<i>Alternative B3</i> Fishermen with an Atlantic shark limited access permit with pelagic longline gear onboard must release all sharks not being retained using a dehooker or cutting the gangion less than three feet from the hook.
Additional Training Requirements	<i>Alternative B5</i> Require completion of a shark identification and fishing regulation training course as a new part of all Safe Handling and Release Workshops for HMS pelagic longline, bottom longline, and shark gillnet vessel owners and operators.
Outreach and Fleet Communication Protocol	<i>Alternative B6</i> Increase dusky shark outreach and awareness through development of additional outreach materials, and require HMS pelagic longline, bottom longline, and shark gillnet vessels to abide by a dusky shark fleet communication and relocation protocol.
Circle Hook Requirement	<i>Alternative B9</i> Require the use of circle hooks by all HMS directed shark permit holders using bottom longline gear.