

Atlantic States Marine Fisheries Commission

ISFMP Policy Board

October 22, 2020
11:15 a.m. – 1:30 p.m.
Webinar

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

- | | |
|--|------------------|
| 1. Welcome/Call to Order (<i>P. Keliher</i>) | 11:15 a.m. |
| 2. Board Consent (<i>P. Keliher</i>) | 11:15 a.m. |
| • Approval of Agenda | |
| • Approval of Proceedings from August 2020 | |
| 3. Public Comment | 11:20 a.m. |
| 4. Chair's Report (<i>P. Keliher</i>) | 11:30 a.m. |
| 5. Executive Committee Report (<i>P. Keliher</i>) | 11:45 a.m. |
| 6. Lunch Break | 12:00-12:30 p.m. |
| 7. Consider Dividing the South Atlantic State/Federal Fisheries Management Board (<i>T. Kerns</i>) Final Action | 12:30 p.m. |
| 8. Set 2021 Coastal Sharks Fishery Specifications (<i>T. Kerns</i>) Final Action | 12:45 p.m. |
| 9. Review Noncompliance Findings, If Necessary Action | 12:55 p.m. |
| 10. Other Business | 1:05 p.m. |
| 11. Adjourn | 1:30 p.m. |

MEETING OVERVIEW

ISFMP Policy Board Meeting
Thursday October 22, 2020
11:15 a.m.-1:30 p.m.
Webinar

Chair: Pat Keliher (ME) Assumed Chairmanship: 10/19	Vice Chair: Spud Woodward (GA)	Previous Board Meetings: August 5, 2020
Voting Members: ME, NH, MA, RI, CT, NY, NJ, PA, DE, MD, DC, PRFC, VA, NC, SC, GA, FL, NMFS, USFWS (19 votes)		

2. Board Consent

- Approval of Agenda
- Approval of Proceedings from August 5, 2020

3. Public Comment – At the beginning of the meeting public comment will be taken on items not on the agenda. Individuals that wish to speak at this time must sign-in at the beginning of the meeting. For agenda items that have already gone out for public hearing and/or have had a public comment period that has closed, the Board Chair may determine that additional public comment will not provide additional information. In this circumstance the Chair will not allow additional public comment on an issue. For agenda items that the public has not had a chance to provide input, the Board Chair may allow limited opportunity for comment. The Board Chair has the discretion to limit the number of speakers and/or the length of each comment.

4. Chairman's Report (*P. Keliher*)

5. Executive Committee Report (11:45 a.m.-12:00 p.m.)
Background <ul style="list-style-type: none">• The Executive Committee will meet on Octboer21, 2020
Presentations <ul style="list-style-type: none">• P. Keliher will provide an update of the committees work
Board action for consideration at this meeting <ul style="list-style-type: none">• none

6. Lunch Break

7. Consider Dividing the South Atlantic State/Federal Management Board (12:30-12:45 p.m.) Final
Background <ul style="list-style-type: none">• The number of species managed under the So. Atl. State/Federal Management Board has increased over time. The Board is made up of the states from Florida to New York but different states have declared interest in different species.

- There has been an interest by some of the more northern states to declare an interest for a few of the Boards species but not all. In order to make the best use of Commissioner time and keep the meetings at reasonable lengths, staff is recommending to divide the board into two: the first a pelagics board managing Atlantic cobia and Spanish mackerel and second a sciaenids board managing spot, red drum, black drum, Atlantic croaker, and spotted sea trout.

Presentations

- T. Kerns will present information on splitting the Board (**Briefing Materials**)

Board discussion for consideration at this meeting

- Consider splitting the South Atlantic State/Federal Management Board into a Pelagic Board and a Sciaenid Board

6. Set 2021 Coastal Sharks Fishery Specifications (12:45 -12:55 p.m.) Final Action

Background

- Similar to previous fishing seasons, NOAA Fisheries is proposing a January 1 open date for all shark management groups. Also proposed is an initial 36 shark possession limit for large coastal and hammerhead management groups with the possibility of in season adjustments (**Briefing Materials**)

Presentations

- NOAA Fisheries Proposed Rule for 2021 Specifications by T. Kerns

Board action for consideration at this meeting

- Set the 2021 coastal shark specifications including commercial opening dates and commercial possession limit by management group

8. Review Non-Compliance Findings, if Necessary Action

9. Other Business

10. Adjourn

**DRAFT PROCEEDINGS OF THE
ATLANTIC STATES MARINE FISHERIES COMMISSION
ISFMP POLICY BOARD**

**Webinar
August 5, 2020**

These minutes are draft and subject to approval by the ISFMP Policy Board.
The Board will review the minutes during its next meeting.

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

TABLE OF CONTENTS

Call to Order, Chairman Patrick C. Keliher	1
Approval of Agenda	1
Approval of Proceedings from February 6 Meeting and July 14 Webinars	1
Public Comment.....	1
Executive Committee Report	1
Administrative Oversight Committee Report	2
Update on the Risk and Uncertainty Policy	7
Committee Reports.....	15
Assessment Science Committee	15
Atlantic Coastal Fisheries Habitat Partnership	17
Habitat Committee	18
Adjournment.....	20

These minutes are draft and subject to approval by the ISFMP Policy Board.
The Board will review the minutes during its next meeting.

INDEX OF MOTIONS

1. **Approval of agenda** by consent (Page 1).
2. **Approval of Proceedings of February 6 Meeting and July 14, 2020 Webinar** by Consent (Page 1).
3. **Move to adjourn** by consent (Page 20).

ATTENDANCE
Board Members

Pat Keliher, ME (AA)	Loren Lustig, PA (GA)
Cheri Patterson, NH (AA)	Warren Elliott, PA (LA)
Ritchie White, NH (GA)	Roy Miller, DE (GA)
Dennis Abbott, NH, proxy for Sen. Watters (LA)	Russell Dize, MD (GA)
Dan McKiernan, MA (AA)	Phil Langley, MD, proxy for Del. Stein (LA)
Raymond Kane, MA (GA)	Steve Bowman, VA (AA)
Jason McNamee, RI (AA)	Pat Geer, VA, Administrative proxy
Justin Davis, CT (AA)	Steve Murphey, NC (AA)
Robert LaFrance, CT, proxy for B. Hyatt (GA)	Mel Bell, SC, proxy for P. Maier (AA)
Jim Gilmore, NY (AA)	Malcolm Rhodes, SC (GA)
Emerson Hasbrouck, NY (GA)	Sen. Ronnie Cromer, SC (LA)
John McMurray, NY, proxy for Sen. Kaminsky (LA)	Doug Haymans, GA (AA)
Joe Cimino, NJ (AA)	Spud Woodward, GA (GA)
Tom Fote, NJ (GA)	Marty Gary, PRFC
Adam Nowalsky, NJ, proxy for Asm. Houghtaling (LA)	Karen Abrams, NOAA
Kris Kuhn, PA, proxy for T. Schaeffer (AA)	Sherry White, USFWS

(AA = Administrative Appointee; GA = Governor Appointee; LA = Legislative Appointee)

Staff

Robert Beal	Sarah Hylton
Toni Kerns	Chris Jacobs
Deke Tompkins	Jeff Kipp
Kristen Anstead	Sarah Murray
Max Appelman	Kirby Rootes-Murdy
Tina Berger	Mike Schmidtke
Pat Campfield	Caitlin Starks
Lisa Havel	

Guests

Fred Akers		Chris Moore, CBF
Joey Ballenger, SC DNR	Mel Gardner	Allison Murphy, CBF
Chris Batsavage, NC, Administrative proxy	Angela Giuliano, MD DNR	Ken Neill
David Behringer, NC DENR	Brooke Goggins	Derek Orner, NOAA
Jeff Brust, NC DENR	Willy Goldsmith, SGA	Nicholas Popoff, FL FWS
Matt Cieri, ME DMR	Zack Greenberg, Pew Trusts	Jill Ramsey, VMRC
Allison Colden, CBF	Bryan Hall NC DENR	Mike Ruccio, NOAA
Caitlin Craig, NYS DEC	Amalia Harrington, ME	Bret Scholtes, Omega Protein
Jessica Daher, NJ DEP	Rusty Hudson, FL	Tara Scott, NOAA
Monty Deihl	Aaron Kornbluth, Pew Trusts	Alexei Sharov, MD DNR
William Dunn	Mike Luisi, MD DNR	Anna Turano, SC DNR
John Duane, Wellfleet, MA	Dee Lupton, NC DENR	Megan Ware, ME, Administrative proxy
Paul Eidman, Tinton Falls, NJ	Chip Lynch, NOAA	Chris Wright, NOAA
Jim Fletcher, Wanchese Fish	Shanna Madsen, VMRC	Erik Zlokovitz, MD DNR
Lynn Fegley, MD DNR	Genine McClair, MD DNR	Renee Zobel, NH FGD
Matt Gates, CT, Administrative proxy	Conor McManus, RI DEM	
	Nichola Meserve, MA DMF	
	Steve Meyers	

The ISFMP Policy Board of the Atlantic States Marine Fisheries Commission convened via webinar; Tuesday, August 5, 2020, and was called to order at 10:30 a.m. by Chairman Patrick C. Keliher.

CALL TO ORDER

CHAIRMAN PATRICK C. KELIHER: Thanks everybody for your attention on all of these matters today. We were obviously moving a bunch of these items to a future meeting or call. With that I'm closing this section of the meeting, and we'll open the closed session at 9:55. We'll make sure we leave plenty of time for questions, answers, comments that need to be made.

APPROVAL OF AGENDA

CHAIRMAN KELIHER: Item Number 2 is Board Consent, Approval of the Agenda. Does anybody have any additions, deletions to the agenda, or any questions around the agenda? I've got to toggle back and forth. Seeing no hands around the agenda, the agenda is approved by consensus.

APPROVAL OF PROCEEDINGS

CHAIRMAN KELIHER: Also, approval of the February and July proceedings for 2020. Does any member of the Policy Board have any questions regarding that document?

Seeing no hands going up, or nobody commenting, the proceedings are approved.

PUBLIC COMMENT

CHAIRMAN KELIHER: Item Number 3 is Public Comment. Are there any members of the public that have anything that they would like to bring to the Policy Board that is not on the agenda?

EXECUTIVE COMMITTEE REPORT

CHAIRMAN KELIHER: Hearing no voices, seeing no hands, we will move right through to the Executive Committee Report.

This morning the Executive Committee met for a little over two hours to discuss many, many different items. The first thing that was discussed at length was the CARES Act. Kelly Denit from NOAA Fisheries did join us to help answer questions. I think it was a good discussion. It certainly raised some additional questions that need to be answered, and Kelly will be following up with Bob Beal, and Bob will get those back out to the Executive Committee.

To date, Massachusetts and South Carolina have been approved. Maine, Rhode Island, Virginia and Georgia have all submitted plans, and I'm assuming they have received, or are about to receive questions regarding their plan. Hopefully the turnaround on those will be quick. I know for Maine's to the turnaround was a little over a week, a week and a half I guess to get questions back. It was a wide range in conversation. I'm not going to go into detail. A lot of it focused around the spend plans, and that allocation.

There was a brief conversation around what is going on in Congress right now about any additional CARES Act dollars that might become available. Kelly did report out that the spend plans that are developed now, hopefully there will be language that the spend plans that are being developed now can be used for future allocations. I want to stress that that is totally optional, so if states want to make a change, if we are lucky enough to get a second round of money, then we would have that flexibility going forward. Kelly did bring up the issues around the sample affidavits, and showing good standing for the applicants with federal government. There was a lot of discussion around the issues of being made more than whole, and how is that going to work?

I'm going by my notes, so if I misstate, I'm going to let Bob jump in. But in particular, PPP and other assistance will not be considered in the 35 percent lost. However, it will be considered in making an individual more than whole, so that is important to note. There was a fair amount of conversation also, as it pertained to that 35 percent loss, and what happens if it is for a distinct period of time, and then that loss is negated based on improved income later in the year.

That potentially puts an individual in a place of having to pay money back. The issue was raised by New Hampshire, and I think a lot of other states certainly raised their eyebrows on that one, to try to figure out how we're going to get around that. Not get around it, but how we're going to address it. That will be something that we'll probably have to have some further conversation on as we go forward.

Some additional questions around the audit as well, and it's clear that whatever we're using to support, or the states are using to support the distribution of the funds would have to be available for those states, and potentially even for the Agency for audits in the future. As I said earlier, Kelly had a few questions she was not able to answer.

She'll be following up directly with Bob Beal, and Bob will get that information back out to the Executive Committee. That was the first item. Does anybody have any questions around the CARES Act that either Bob or I might be able to answer? Seeing no hands, I'm just going to keep going down through my report.

ADMINISTRATIVE OVERSIGHT COMMITTEE REPORT

CHAIRMAN KELIHER: We went out of order, back up to Item Number 4 on the Executive Committee or the AOC Report. The Oversight Committee reviewed the budget that was submitted by staff, and after several conversations with staff and answering questions, the AOC moved to the Executive

Committee that the budget for FY21 be approved, and the budget was approved without objection.

The AOC also reported out around unspent funds related to contractual agreements. I believe the document has been made available for the Policy Board, but the practice that we currently have in place was memorialized in a policy document after discussion with the AOC. AOC had some minor changes. Those were presented this morning to the Executive Committee, and again those were approved without objection.

Also related to the AOC report was an issue that was brought up by Ritchie White from New Hampshire around the use of unspent funds, and the need for a policy. Bob Beal informed me that there was the beginning of a policy being developed prior to COVID, as it pertained to unspent funds and how or what type of policy we should have in place. Based on that conversation, and knowing that that work is already ongoing, Bob and Laura are going to dust off that document, do some additional work on it. That will be brought back to the Executive Committee, and then the Executive Committee will then report out to the Policy Board. I'm just going to keep moving on, and then we'll circle back for questions at the end, if there are any questions. Agenda Item Number 6, back in the order was a report by the Science and Management Committee. This was a report that was presented by Sarah Murray, and it was on public participation to the Advisory Panel process, and through Public Hearing Process.

It was a very thorough review by the Science and Management Committee, really focused on public engagement, exploring strategies and efficiencies on how to reach stakeholders. The Executive Committee did have some conversation around stipends as a way to encourage people. But it was pointed out that stipends for Advisory Panel members, where there are not stipends for Commissioners that are not part of a state agency or any legislative

These minutes are draft and subject to approval by the ISFMP Policy Board .
The Board will review the minutes during its next meeting

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

staff, potentially could be problematic. Some additional conversations around that may be needed in the future.

One of the ideas around this was to try to find ways to develop some accountability, so if people are participating and they're receiving some sort of stipend, that they would have to have accountability. But again, based on the fact that there are some budgetary constraints around that, and the fact that there would be some inequities.

I think more conversations around that need to take place. Also, around public participation was the issues around a possible hybrid approach, to include both in-person meetings and webinar kind of combined. I know through New England Council we're going to do that on Amendment 23 on groundfish, at least within Maine, trying to bring some people together that will participate in an in-house meeting, as we do some additional work through webinar.

I think those are the type of things, especially in this Pandemic, we're going to have to start thinking outside the box on how this hybrid approach could be utilized. Then lastly, there was more talk about how we can educate, do a better job educating Advisory Panel members in particular.

The thought to that, advisors aren't listened to or they don't listen to us in their general statement was discussed. We talked about how we can improve the expectations of the advisor, that their input is part of a larger process, and how can we move in the direction to do a better job educating, so people are aware of what that input means, and how it is being considered.

I'm going to pause there. I know I've gone through a couple, just make sure I don't have any hand up, so I'm going to continue to move down the list. Item Number 7 is a topic that has come up and has been presented around Pennsylvania's participation on the Menhaden Board. A letter was submitted to Pennsylvania. Pennsylvania has now responded through their attorneys with a letter of disagreement. Kris

Kuhn on the Executive Committee did a very good job explaining the rationale behind that letter.

A lot of conversation on this, a lot of states recognizing the fact that Pennsylvania is very committed to menhaden and the conservation of menhaden, and that we have their participation being in conflict with the compact. Our attorney, the ASMFCs attorney, after reviewing Pennsylvania's letter has asked Bob for some additional information. That information will be presented in a letter form back to Pennsylvania, and there has been no final decision on this. Additional conversations will happen at the Executive Committee, with a plan forward being brought to the Policy Board at a later date. Item Number 8 was to consider the division or dividing the South Atlantic Board. Bob may want to weigh in on this, or Toni if any conversations need to take place around this.

But at this time, the Executive Committee because of lack of time on the agenda, have pushed this off to a later call. We certainly will have more around that issue in a future meeting. Jay McNamee, would you like to bring the issue up around that participation, about Rhode Island's participation?

DR. JASON McNAMEE: I'll try and be really...within it. It connects with this, I think. In any case going back a little over a year. The ASMFC reached out to Rhode Island. I think what was going on was the cobia assessment was going on. What the Commission noticed was Rhode Island had a bunch of commercial landings.

In fact, they were higher than I think some of the states that are currently on the South Atlantic Board. They reached out to Rhode Island to investigate a little bit, whether those were just boats that were actually fishing down south, and then landing up here or not. What we discovered was the majority of those landings were coming out of our floating fish trap fishery, which is an inshore fixed gear, kind

These minutes are draft and subject to approval by the ISFMP Policy Board .
The Board will review the minutes during its next meeting

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

of akin to like pound nets, kind of a gear like that.

A long story short, those were legitimately fish being caught in Rhode Island waters. That was both interesting and the question that was posed to us is hey, do you want to get involved in the management of cobia, or what would Rhode Island think about joining into the management process for cobia?

We kicked that around a little bit and investigated. The landings are still in the grand scheme of things fairly small. But we were looking at what that would mean by way of regulations and things like that. Long story short, after a consultation with folks in the industry and within state government, we felt we might be interested in getting involved.

We thought, you know it would be good if this trend continues that Rhode Island should be a part of the management process, if restrictions need to be made or what have you. We should be a part of that if there are landings occurring in our area, and it was an opportunity for us to be involved in any of that management process. We are interested, certainly in getting involved. I think it would be focused on cobia.

I don't think it would connect with any of the other South Atlantic species, at least at this point, right? But that is where we are at, so we wanted to at least get that out on the table for the folks in the South Atlantic Board to think about. It may connect in with this decision of splitting the South Atlantic Board. I haven't quite wrapped my head around if that is a critical element or not. In any case, I'll stop yammering away here, Mr. Chair, and that's all I wanted to offer for today.

CHAIRMAN KELIHER: I do have a couple of hands up. I'm assuming they are on this topic. But before we do, we have determined that the Executive Committee will get additional information on this topic from staff, and we can put this as a placeholder, as part of those

discussions. I've got Joe Cimino and Lynn Fegley. Joe.

MR. JOE CIMINO: I support this notion, and if it does become Spanish mackerel and cobia as a separate board, I think there are several states that are going to want to be considered. My question is, since we have, and this may be Lynn's as well. If we have a cobia addendum going forward, and we recognized the other day that we're losing Dr. Schmidtke, so I don't know who on staff could help advise us.

Should we be pausing on that addendum, or is the concept of adding newer states something that would (broke up) a new amendment, in which case let's get through this addendum, and then we start a new amendment when we look at adding other states. But I was just hoping to get some guidance from staff on should that addendum still be moving forward.

CHAIRMAN KELIHER: Toni.

MS. TONI KERNS: For adding states to a management board, Joe. That is something that the Policy Board approves. There are guidelines in the Compact that we follow when adding states to a board, so you don't have to change the addendum for that. Then that management body would be updated in the next management document. I don't know if Bob has anything else to add there.

CHAIRMAN KELIHER: Bob either is still having microphone troubles or –

MR. EXECUTIVE DIRECTOR ROBERT E. BEAL: I'm unmuted by the organizer. I've got a theme for the day. I don't have much to add. That can be a Policy Board decision. The Commission can move states on and off management boards based on Policy Board action. It doesn't take an addendum or an amendment to do that.

MR. CIMINO: Mr. Chair, sorry just a quick follow.

CHAIRMAN KELIHER: Yes, please Joe.

These minutes are draft and subject to approval by the ISFMP Policy Board .
The Board will review the minutes during its next meeting

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

MR. CIMINO: I appreciate that. I can't pretend I knew all that information that well. But I was being a little bit more specific to the cobia addendum itself. Would it complicate it if there were new states involved? Do we need to think through that whole process of what this particular addendum is doing for us? Should we pause to wait to see if we need to consider other states or not?

CHAIRMAN KELIHER: I've got Lynn Fegley and then Jim Gilmore.

MS. LYNN FEGLEY: That was not my question, but it's a good one. Just to follow up if I may very quickly on Joe's point. I think if the Policy Board decides to split the South Atlantic, then we would really want to make sure with this addendum that Rhode Island has the ability, if they want to declare an interest to participate in that public comment, because there is more specific measures for *de minimis* states, which I assume Rhode Island would be. I think that is something we need to consider. But I also wanted to say that, and I conversed with Toni about this a little bit yesterday. The spot FMP resides in an omnibus with Spanish mackerel, and one is a sciaenid and one is a pelagic. You know Pat Geer and I used to talk about splitting out spot from that omnibus, because it seems to always go together with croaker.

It's a little bit of work for staff to do a spot addendum and a croaker addendum, when potentially they could just do a spot and croaker addendum. But it is also work to split spot out and put it with croaker. But I was curious if the Board was split into a sciaenid and a pelagic section, would that push the issue? Would we need to pull spot out of that omnibus, which actually I think would be a good idea, but I just wanted to check on that.

CHAIRMAN KELIHER: Toni, do you want to comment on that?

MS. KERNS: I will do my best, then Bob can correct me if I'm wrong, based on our conversation last night. I think that we would

be okay. What we would do is, the omnibus is actually Spanish mackerel, spot, and spotted sea trout. We have had individual addenda that relate to individual species under that omnibus.

We could continue to do addenda for Spanish mackerel on their own, and when we were to go forward with our next amendment, the next time we did it then we would be pulling it out of the omnibus and into an amendment on its own. If you recall back in the nineties, Spanish mackerel was its own FMP.

It started off as its own, moved into the omnibus, because I think there are a lot of similar management frameworks for those three species. We thought it would be easier to combine them. Now we are finding ourselves in the place where we think we might need to be splitting them out. I think when we come up on the next amendment, we would do that, Lynn. But we would be okay otherwise.

CHAIRMAN KELIHER: Jim Gilmore.

MR. JAMES J. GILMORE: Just a comment at this point. A couple years ago New York was invited by leadership to join in on the South Atlantic Board because of cobia, and we declined because at that point it was sort of an all-in or all-out. It was sort of a workload thing. We didn't for all the species we would have to be involved with. Now Rhode Island is considering, at least getting in it and commenting on cobia, or even maybe more involved with the management.

We'll have to rethink that, because I'm not sure how well it makes sense that states like New York, and Connecticut too. I'm not sure how much activity Connecticut is having on cobia. But we're having probably the same amount as Rhode Island. Not that I want to make more work, but now if it's not an all-in thing, but if we are going to consider maybe splitting the South Atlantic Board up into different species, we would have to think about that again.

These minutes are draft and subject to approval by the ISFMP Policy Board .
The Board will review the minutes during its next meeting

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

Just at this point I just wanted, we originally had opted out of it, but maybe we need to reconsider that. Actually, this is going to be happening for maybe a bunch of species as we progress and do our northern migration. Mr. Chairman, you took all our lobsters, we don't have to worry about them anymore, but we've got a lot of things coming up that we never really thought about. As we progress on this, we'll again have to rethink it. I would like to see if Connecticut has any desire to get on this.

CHAIRMAN KELIHER: Are there any other comments on this before we move on? I don't see any other hands. Anybody on the phone have a comment? Hearing none, seeing none, as I stated earlier, the Executive Committee has tabled this for a future conversation. I think we can, based on the comments we've heard here today from the Policy Board, we can add those into the mix.

Then, I think as long as the timing works we can report out at the October meeting. If there are no objections to that, I'll finalize my report, and then we can move on with the agenda. Under Other Business there were several issues brought up, the first being the annual meeting. We are three months away from our annual meeting in New Jersey.

Both Spud and Bob and I have had several conversations about this meeting over the last several weeks. I mean the fact of the matter remains that the COVID-19 Pandemic is still in full swing. We have states that are on this call that are likely lit up as hot spots. The idea of trying to bring everybody together into New Jersey to complete our annual meeting is just not in the cards for us this year.

The Executive Committee after some discussion, agreed that the annual meeting should be moved to a virtual meeting, just as this one. One question was brought up around the fact that is there a way to combine commissioners and put them in one spot, and maybe using videos as part of that, or maybe even not using video.

Staff is going to look into that a little bit more, to see if the GoToWebinar would work for a little bit of a slightly hybrid approach for the Annual Meeting. It was also agreed at that time that we would just not remove New Jersey from the list, but we will just shift over a year so New Jersey will be hosting in 2021.

They've done a tremendous amount of work on this annual meeting, we're sad to see it not happen, but we believe that now would be prudent to make that delay. Bob, I don't think that the Policy Board needs to make a call on this, or affirm the Executive Committee's recommendation. If you could jump in and air your thoughts on that I would appreciate it before I move on.

EXECUTIVE DIRECTOR BEAL: I think that's correct, Pat. It was unanimous at the Executive Committee that changing this year's annual meeting unfortunately to virtual is the way to go. Adjusting the schedule to have New Jersey be the host for next year. I don't think there is any need for the Policy Board to take action on that. The Executive Committee can make that decision.

CHAIRMAN KELIHER: Great, thank you. The only other thing under new business was a letter that was submitted by Commissioner Tom Fote as it pertained to working groups. It was focused on some of the work on the Striped Bass Working Group, but I don't think at the end of the day, Tom was not trying to say that the results of that were flawed. He was trying to raise the issue of participation and state participation, and trying to make it a little bit more holistic, as far as participation. Making sure states are included. Certainly, the policy that we have in place now was followed. There is nothing out of the ordinary around that, it's just continued observation that he wanted to put forward. In doing so, Tom did make a statement.

I had a long conversation with Tom, a very excellent conversation with Tom around an individual who was on the Working Group. I

These minutes are draft and subject to approval by the ISFMP Policy Board .
The Board will review the minutes during its next meeting

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

talked to that individual; he said no problem stating this publicly. But as you all know, Ritchie White, an outstanding member of the Commission had to have emergency open heart surgery, corrective heart surgery.

He was not on the Committee. Tom was not aware of that, so there were some dynamics in Tom's letter that made us kind of loose sight, or made the message around the working groups kind of lost in that conversation. This was brought up at the Executive Committee. I am bringing it up here today to say that the Executive Committee has tabled that conversation to a future date.

We will look at the issues around the makeup of future work groups, as it pertains to species boards and that work. Again, the fact that the Striped Bass Working Group I think did a really great job. Marty and Megan did a fantastic job being open and transparent, probably much more so than any other workgroup that I've been involved with.

I want to commend them for their work on the workgroup, and the fact that a very balanced document has been presented now to the Striped Bass Board. We'll have more conversations around that at the Executive Committee level, and those may come back to the Policy Board as well.

Then the last item was the item of our Executive Director. We planned a closed session for this, as we do for all staff related issues. In this case it was the Annual Performance Review for Bob Beal. Spud and I took a little bit of a different approach to it, whether Bob liked it or not, I'm not sure. But I know that with my senior staff I use a self-evaluation approach, and we did that with Bob, after he submitted to us his annual duties, which are many.

We asked him to pare it down to a minimum of 10, and I think he put a few more on than that. We also asked him to do some self-reflecting. I find when people do this, they are harder on

themselves than that of their manager. Bob was very open and honest about his review, and about these items. He elevated some things that could be worked on.

Spud and I had very good conversations around those. That document was presented to the Executive Committee, and I am pleased to announce that we continue to be nothing but thrilled with Bob's performance, especially during this time of a global pandemic. You know all of us are affected in one way, shape or form or another.

Then many of us on this call have to deal with it, not only for ourselves, and reflecting on how it's impacting amongst ourselves, but how it is impacting our staff. Bob not only has that on his plate, and how to deal with staff, but also how to deal with the issues around all of the Commissioners from Maine to Florida. I've often said, and I repeated it today that you know an Executive Director has to be the chief cook and bottle washer. In this case he's got to be an administrator, a fishery scientist, a policy advisory, and frankly a therapist to a lot of us. With that, I'm pleased to announce the Executive Committee's full support of Bob Beal, and would like to thank him both personally, and on behalf of the Executive Committee and Board for the work he continues to do.

With that I will conclude my report, and would be happy to answer any questions around any of these items that the Board may have. I am not seeing any hands go up, so with that I will conclude the report of the Executive Committee, and will move right down to the next item, which is Jason McNamee with a progress update on the Risk and Uncertainty Policy. Jason.

**UPDATE ON THE RISK AND
UNCERTAINTY POLICY**

DR. McNAMEE: This is an update on the Risk and Uncertainty Policy that we had been talking about. We went kind of dark on this for a little while. A lot of that had to do with several of

These minutes are draft and subject to approval by the ISFMP Policy Board .
The Board will review the minutes during its next meeting

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

the folks who are pushing this forward got wrapped up in the ERP work. That is kind of why we haven't seen too much on this in a while, but we're back.

We just wanted to give you an update, and there was actually some work going on this as well. That is what we're talking to you about today. Just a little background. The idea was to develop a process that could be used for many different risk decisions made by the ASMFC, and the attributes of doing that were we would be creating a systematic process to deal with what we're trying to do with risk at the Commission, and to make a process more transparent.

We assess risk all the time when we make management decisions. But a lot of time it's kind of murky and can be different, depending on which Commissioner is kind of making the decisions. The original idea that we had to develop this system was to develop a decision tree to implement this process.

If you remember, we kind of jokingly called it plinko. You sort of entered into this decision tree and you bounce your way down to the bottom, and at the end you get a probability of management success, and so you kind of add and subtract buffers as you go. This is just a reminder of what that looked like, and this isn't even all of it. This is just a portion that we could fit on a slide.

A lot of questions, and a lot of plinking to do with this old system. What we did the last time we all spoke was we had taken the system that we had developed, and we wanted to put it in front of some other groups, and actually try it on a species. At the time we decided to try it on striped bass. The Striped Bass Technical Committee and the Committee for Economic and Social Science were consulted, and they took a crack at trying to both give us some advice on parts, and that is what the CESS was doing.

The Striped Bass TC tried to apply it to striped bass, and so we developed a preliminary striped

bass example. What came out of that, and again this was an experiment, and it was a successful one, because we learned a ton. What we came to the realization of was that this approach is very brittle is the word we've been using for it. What we mean by that is anytime you would add new information, or if you adjust the importance of any one of those categories or decisions, you have to redo the entire tree, because what was happening was it was just additive and subtracting as you kind of went down. If you didn't add it in a new question or if you had an extreme event, so something that really got pinned to a decision or an enhancer within the decision tree that was really significant, and really extreme. You would have to redo the whole tree to make it kind of perform the way you want it to. It was an important experiment, and we learned a lot by going through it.

One of the things that came out was one of the members of the CESS Committee said, hey we should rethink your approach. I've got an idea of a better method to help you kind of deal with these aspects that make your existing system kind of brittle. We went, took his advice, and we revised the approach.

Also, the Striped Bass TC when they went through it, interestingly they ended up having to kind of cobble together some interpolations, I guess I'll call them. That was actually very much in line with the advice that we got from the CESS Committee. Those two things kind of came together, and gave us a consistent signal.

We made some refinements to the information included in the approach that input, and we also developed a new formula for combining the input into a final probability of management success. The following information is incorporated into the Risk and Uncertainty Decision Tool, and it's split into four categories.

I won't go through all of this in the table, but remember you've got a set of information that is about the stock assessment, so it's kind of technical determinations. Then you've got a set

These minutes are draft and subject to approval by the ISFMP Policy Board .
The Board will review the minutes during its next meeting

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

of information on the uncertainty that is involved for that particular species, and the information that's involved with that species.

Then we had a couple of other categories like the additional risk determinations, like the trophic importance of that species. Then a bunch of stuff on the economic and social considerations, I think the table is mislabeled there, sorry about that. But we've got both short term and long term economic and social considerations, with regard to the commercial sector and the recreational sector. That stuff is all still in there.

There are further details on all of that stuff in the Technical Committee guidance document that you can take a look at. I think it was in the materials that were posted. One recommendation that we want you to think about. One thing we could do is task the Assessment Science Committee and the Management and Science Committee, and the CESS with developing specific criteria for each input.

There are some already there, and they could kind of look through that and decide if there should be some other things in there. Now a little bit about the new approach. This is your old pal, J. Mac talking to you, so of course there has got to be an equation in here at some point, am I right? But don't get scared. It's not that bad.

Like the decision tree the new formula incorporates all of the inputs that we talked about before, all of those questions in the decision tree and the answers. It incorporates them into a final probability of management success. I won't belabor this equation too much, other than show you there is that little superscript in the bottom part of the first equation there with a capital Z, and what you see contained within that is you've got all of these little components. All those are, are the for instance the little x_1 . That is just the answer to question 1 in the decision tree. Now the

thing before it, the little b_1 , that is going to be a weighting of that.

You can give that more importance or less importance in the overall decision process. Then there is a constant there as well, and just to kind of orient you to that. If you wanted to go in with a probability of 50 percent probability of management success, you would just set that constant a to 0. You can kind of adjust that depending on where you want to be with regard to your starting point for your management success.

Okay, so a little bit easier way to kind of understand. The new formula is a sigmoid function. That is another or a logistic formula. The two other ways of kind of describing the same thing. It uses the sigmoid function to address the issues identified in the preliminary decision tree, that brittleness.

Specifically, it's easily adapted to any new information you want to plug in. It's consistent across species, even if the information available is different, and it's able to handle extreme cases, so you can put in really high values into that Z equation I just talked about on the last slide. But it all always gets kind of crunched into fitting within normal probability range from 0 to 1.

By separating the technical information from the weightings, the approach can be more transparent and easier to use. I'm going to get into a quick example here. This will kind of show you exactly how this could work, in kind of a hypothetical world. Let's pretend that we need to set a TAC for a species.

That first decision you need to make before we can get some information about the TACs that we have available to us, is what the probability should be for that TAC, with regard to F, fishing mortality being at or below the F target. If we want a higher probability of management success, we would have a lower TAC, because that would be more risk averse.

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

If we want it to be a little more risky in that decision, for whatever reason, and have a lower probability of management success, we would end up with a higher TAC, so that would be a little more risk prone, but we can make those decisions based on our risk policy. Here you have a panel with four plots in it, and this example demonstrates how both the inputs and the weightings affect the final probability of management success.

In this case what you're looking at is the default starting probability of management success being 50 percent. That is something that we tend to use a lot. If you look at the top left panel, that shows a situation where you're not overfished and overfishing is not occurring. You can see that little box falls right on the 50 percent line.

Then to the right, that shows a case when both the biomass and the fishing mortality are between the target and the threshold. You can see that this increases the final probability of management success slightly, you know not too much. But you can see that little gray box is now up above that 50 percent line, you know whatever it is, like 55 percent, or something like that. The bottom left shows when either the stock is overfished or overfishing is occurring. You're not doing great in one of your metrics. What you can see is now this boosts that probability of management success up a little bit higher.

Now you're clearly up above the 50 percent line. Then the bottom right, that is your kind of extreme case. When the stock is both overfished and overfishing is occurring, and you can see that results in the largest increase in probability, your highest stuff on the curve there in that case. For the next, I think three slides this format will be the same.

Your stock status will be in the same position in each case, but now we're going to add in a couple of new scenarios, so you can see how these things interact with the decision process. Okay, so now this figure shows those same

scenarios, but adds a layer of the fact that we have high levels of uncertainty somewhere within our decision process.

What you see that's new on the box here is an orange circle, and that is showing that you have high uncertainty in some element for this hypothetical species. What you can see happens is that little orange circle kind of sits just above the gray box that we talked about on the last slide. You can see, because you have high uncertainty, you want to be a little bit more risk averse.

Now all of those same decisions that you had made will kind of boost it up a little bit, as far as your probability of management success that you get out of this decision tool. This case demonstrates how accounting for a negative socioeconomic impact of the management action would reduce the probability of management success.

This pushes back on the increases that you would get otherwise. Just an important note here is that the magnitude of these shifts depends on the faulty information that is driving it, and on the weighting determined by the Board. That would make all of these things slide further up or further down, you know on the curve. But for this example, the Board could weight short term socioeconomic impacts as relatively high.

That would increase the effect on what you're seeing up on the screen, or you could down weight it, and that would decrease the effect. But what you see here is, now we have a blue triangle on there, and you can see that because we are in this case putting emphasis on the negative, short term, socioeconomic impacts.

You can see that even in that base case you're pushing down below, so you're being more risk prone, you know in that top left box. But in all of the cases, because you have this potential short term negative socioeconomic consequence, you're shifting your probability of

These minutes are draft and subject to approval by the ISFMP Policy Board .
The Board will review the minutes during its next meeting

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

management success down in each case. You're being more risk prone.

Final scenario, and I'm almost done, Mr. Chair, I promise. There is now a, I'll call it a purple diamond on the screen. In this case what we're trying to demonstrate is incorporating a long term positive socioeconomic impact of a management action. If you were more risk averse, you would get better socioeconomic consequences in the future, and so that is what this case is demonstrating for you. In these cases, where you wanted to emphasize the long-term effects, because they have more positive benefits. You can see that in this case these would be the most risk averse decisions that you would make in this scenario. It boosts up the probability of management success that you would apply to your management action. Incorporating both short term and long term, is what I was allowing these things to be both positive and negative in their directionality, the socioeconomic components.

It allows the Board to transparently account for those types of tradeoffs. The decision tool will be developed by the species board. The facting of the specific decision process will be done by the individual species boards, who would do that in collaboration with the Technical Committee. This will be done in a process that is separate from the management decision, so you will kind of do that ahead of time.

This could be an iterative process, so the Board can provide feedback on the weightings, and the decision tool answers when they see the results. You can kind of have like a process that has feedback. But the idea would be to set your weightings and things like that a priori, so that you are kind of making those initial weighting judgments before you have kind of a pressing management decision to make.

Then the final bullet there, the probability of management success will be used then by the Technical Committee or the Plan Development Team to develop the management options. Instead of the situations where the Board ends

up saying hey, give us a probability of management success between 30 and 75 percent, and then kind of looking at the answers and making a judgment.

They will kind of make the a priori decision of how you want the emphasis to go into the decision process, and then you would have a much smaller range, or actually potentially a single value in the end. It cuts down on the workload and the amount of decision making that the Board has to do after the fact.

Any feedback on this revised risk and uncertainty approach as a whole would be something we're looking at from this group. That is something to kind of think about. Additionally, the Board could use surveys or voting technology, remember we did that process a year or so ago with the clickers.

It's kind of like a live voting surveying thing that we were doing at the Board, which was kind of fun. We could do something like that to collectively determine the weighting preferences. Remember, the Boards are going to have to set these weights ahead of time, so we wanted to know what you thought about that as an approach.

Then the socioeconomic questions are currently the only components that can be both negative and positive, so it could both increase and decrease the probability of management success. We were wondering if you wanted to incorporate other components of the decision process that could be both positive and negative as well.

Then last slide, potential next steps for you to consider are, we could incorporate any feedback that you have today. Then what we could do is take that and then work with the ASC, MSC, and CESS to refine the criteria for the decision tool inputs. Then what we can do is take that and revise the striped bass example to fit this new approach, including a test run with the Striped Bass Board. One final thing I wanted to leave you with is, we met with the Risk and Uncertainty Working Group that had

These minutes are draft and subject to approval by the ISFMP Policy Board .
The Board will review the minutes during its next meeting

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

been developed. They've generally liked this. But during that discussion they brought up the notion that there may be some other examples we might want to test this on.

Specifically, they brought up lobster and menhaden as other viable candidates, but for the short term we thought continuing to focus on striped bass might be a good way to move this forward. But I wanted to at least mention that advice about lobster and menhaden that came out of the Working Group. Mr. Chair, that is it for me. I am more than happy to take any questions that anybody has on this.

CHAIRMAN KELIHER: Thanks, Jason, very thorough report as always. I particularly love the reference to using our buddy our pal, as I was walking out to get my Advil. Think about the details around this. A couple hands have already gone up. Justin Davis.

DR. JUSTIN DAVIS: Thanks for that presentation, Jay, this is really cool, I like it. I don't know if it would be possible to put up the slide further back with the actual formula, but in the meantime, I guess my question was, in looking at this you've got your different inputs, which will reflect things like socioeconomic factors and the condition of the stock.

Those will be represented here by sort of the X1s and the X2s, and my first question is, those would presumably be scored, like on a 1-5 sort of scale or something like that? Then there would sort of need to be some decision about how that is handled. Then the different, you know what we would think of as kind of the slopes here in a multiple regression, but the B1s and the B2s, the weightings.

Those I think, would those have to sum to 1, so that essentially like if you're setting 1 at 0.25, and another one at 0.5 that is directly saying we're considering the 1 that you're putting the 0.5 in front of is twice as important, or are we going to have to set those factors such that they kind of like produce a certain outcome of overall probability of management success?

Those figures you showed with the sigmoid curve, that they sort of, you know given a certain set of scenarios you end up someplace on that. I guess I'm just wondering, sort of like how the decisions would be made about those weightings. Those are my two questions, if those make sense.

DR. McNAMEE: Yes, really good questions, Justin. Let me see, I'll start with the latter question. The way you characterized it at first is correct. They would need to sum to 1, and that kind of controls where it ends up. You are correct. They need to kind of sum to 1, and the way that you described it, weighting certain things over another is exactly right. If you put a larger B1, you know next to the X1 relative to a smaller B2 next to the X2, B1 is what you're giving the most influence to within the equation. I am sorry, I had forgotten your very first question.

DR. DAVIS: My first question was, for the inputs, the X1s and the X2s, would those be something that is sort of like scored on a scale of like 1-5 or something like that? Would that be a good meeting point of how you come up with your scoring criteria for those.

DR. McNAMEE: Yes, and that was actually the thing that kind of brought this whole thing to the fore. When we brought this to the CESS, they were kind of struggling with the way we had it constructed, because a lot of in particular social science information, comes out of things like Likert scales and you know things like that.

They don't lend themselves well to adding 0.05 or something like that. Whereas, some of the technical stuff does. That comes directly out of the assessment information. You know trying to cobble those different types of things together and make the end results be something that is useful and meaningful. That is what created our challenge, and is what led to this.

That is exactly right. But I think some of that stuff could avail itself, and I think in some of the

These minutes are draft and subject to approval by the ISFMP Policy Board .
The Board will review the minutes during its next meeting

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

background information that was also posted with this. There is a little more information on this very topic, where socioeconomic questions could be scored 1-5, and so that is what you would be doing there. Then for the technical information you could be adding, giving it scores between 0 and 1, you know things like that. Yes, I think you've got this exactly right, Dr. Davis.

CHAIRMAN KELIHER: Anybody else have any questions for Jason? If staff could go to the final slide, the recommendation.

MR. JOHN CLARK: Pat, could you add me to the queue? This is John Clark.

CHAIRMAN KELIHER: Yes, John. I've got Lynn Fegley, and then we'll go to you, John. Lynn.

MS. FEGLEY: Jason, thank you for this. This came out, I'm just really excited about how all this worked out. I remember those early meetings when we got so excited about plinko. I may have been a little skeptical that this really. Thank you for all the work on this, and the great presentation. I wanted to just highlight two things.

One is, I think this idea that the development of the uncertainty level is separate from a management decision. I think that that is really important, that this is done a priori so that it's not happening at the same time that people have great concerns and fears about particular, and likely necessary management action.

I think that a priori piece of it is important. That kind of brings me to the second part of my question is, you know reference points are set differently for different species, and in some cases a threshold reference point really might be indicative of a border between stock collapse and stock sustenance, and in other cases maybe not so much.

I have been known to say to my constituents that, you know when we manage fisheries, we kind of use the science to create a box for you

that we don't want to go outside of in management. That is our spacey area, and what we do within that spacey area is very much where we need the input from all of our array of stakeholders. My question really is, just about the short-term economic impact weighting factor, and how we sort of ensure, because that is always the scariest thing right, short term economics is always the scariest thing. I guess my sort of process thought question to the Board is, how do we ensure as the Boards are walking through this process that we make sure that we're maintaining that safety box, while we're figuring out the weight of short term economic impacts, if I phrase that so that it makes sense?

DR. McNAMEE: Yes, Mr. Chair, I can respond if you would like.

CHAIRMAN KELIHER: Yes, please do.

DR. McNAMEE: Okay, thanks for that, Lynn, that was great. I completely agree with you on the transparency aspect of it, in making sure that we at least set things up ahead of time based on the risk policy and not based on kind of the heat of the moment. That is super important as well. Then, I think your question about, I like the way you sort of visualized that as the box.

I think that is actually another important factor that I didn't touch on explicitly here. But there may be, for instance we don't want to go all the way to 100, or all the way down to 0, as far as the management, I'm sorry the risk advice of the probability of management success that we get out of this tool.

That is another decision factor, if we want to kind of bound this, and I'm just making stuff up, to not go below 40 percent or above 75 percent, or something like that. That is kind of one aspect of what you're talking about. That's another thing that we'll have to work through, and that's a higher-level decision, so that could be like the ISFMP that kind of sets that with

These minutes are draft and subject to approval by the ISFMP Policy Board .
The Board will review the minutes during its next meeting

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

advice from the Boards, if we wanted overarching set up criteria.

In another context I think, short term and long term socioeconomic considerations, you can also work within the species specific arena, and just weight those things to make sure you're not putting too much emphasis on those factors, so we don't kind of pin yourself always, you know at the bottom end of the box.

Because lots of times there is going to be significant socioeconomic consequences in the short term. I think that is where the weighting becomes really important. That is why doing a standalone meeting, where we kind of work through those weightings with some scenario testing, and things like that, I think would be a really good approach to setting those weightings.

CHAIRMAN KELIHER: Does anybody else have any additional questions for Jason? I don't see any others. Oh, John go ahead.

MR. CLARK: I wish I could have seen your presentation, Jason. I was following along in the memo. It is very interesting, and my question kind of follows up on Lynn's in that I notice on the socioeconomics, because it is the only one that goes from a negative to a positive. Is it possible that those could all just negate each other? Like if the short-term economic impact is negative 5, weighted for the 1 and then positive 5 for the long term or short-term long term, that you could end up in a situation where these human dimensions determination ends up having no impact on the final probability?

DR. McNAMEE: Yes, yes. Really good question, John. The answer is yes. But that would only be the case if in the end your weightings on those competing factors were exactly the same. If you have, you know a weighting of 0.1 on the one that you have on the negative side and 0.1 on the positive side, and then you scored them exactly the same, so it is kind of like multiple components at play.

But if you have the same weightings, and then gave them the same scores, then yes, they would cancel each other out. They are in fact influencing your final determination though. The result seems like it hasn't had an influence, but it does. I mean what you're saying is, we think that short-term influence and the long-term influence are both super important, and that's why they have kind of canceled themselves out. Then the other components of the decision process.

You know they have kind of determined where you end up on the curve. But that would be something that would avail itself during, kind of the weighting exercise that you're doing with the Board. You could do that kind of a scenario, and then the Board could decide, well we don't want them to have equal weight so they don't do that every time, or some of the time or whatever it is. There are ways to construct it, so that doesn't happen frequently, but long-winded answer to your question. The answer was yes, that can happen.

MR. CLARK: Thanks, Jay, you know as I said, it's just one of those perceptions that a lot of times we'll say it is short-term pain for long-term gain, and having a formula that can actually end up trying to show that is great. But it could also end up being something that kind of minimizes the economic impact. Thanks.

CHAIRMAN KELIHER: Thank you, John, we certainly have got a very thorough report here by Jason and the group on risk and uncertainty. Jason, I think you got some feedback with some very good questions here. There was some discussion or comment in the potential next steps about working with three different groups to refine the criteria.

It would seem to me, based on the questions, there is some revisions and refining that need to be done. Is there any disagreement from the Policy Board about continuing with this work, and getting an additional report back at a later meeting? I don't see any hands going up. Jason, I'm going to take that as affirmative to

These minutes are draft and subject to approval by the ISFMP Policy Board .
The Board will review the minutes during its next meeting

my question to the Policy Board. Do you need any additional input based on that?

DR. McNAMEE: No, I think that is it, Mr. Chair. Thanks to everybody for tuning in, and thinking about this a little bit. With that affirmation, it also sounds like that sticking with the striped bass example is the way to go, so we'll get to work on that and we'll be back.

CHAIRMAN KELIHER: Great, thank you very much Jason, it's great work. Appreciate that.

COMMITTEE REPORTS

CHAIRMAN KELIHER: I'm going to do a quick time check. We've got until 12:05 on the agenda. We could probably run a little bit long. I know it's going to bump up into a meeting for me. Toni, we've got Committee Reports coming up. Do you have a sense of the timing around those?

MS. KERNS: I think they will be fairly quick, all of them. I know that some can be sped up a little if necessary.

CHAIRMAN KELIHER: Okay great. Well, we have both Sarah and Lisa in the queue to present these reports, so why don't we move right to the Assessment and Science Committee, the report from Sarah Murray.

ASSESSMENT SCIENCE COMMITTEE

MS. SARAH MURRAY: Thank you, Mr. Chair, and I'll try to be as fast as possible. The ASC met on May 20 to discuss a number of issues, including the stock assessment schedule, which is the main purpose of this presentation. I did want to also note that there were plans to hold an advanced stock assessment training on management and strategy evaluations, and those have been postponed due to COVID-19.

We're working on rescheduling that, and determining whether we would like to host that as a webinar training or hold it as an in-person training, and hold off until that is feasible. The proposed stock assessment schedule is available here. It is also available in your

meetings materials, as I know these are rather small words.

The ASC discussed and approved the draft stock assessment schedule at their meeting. This schedule, again available in your meeting materials, but I'll review some of the highlights of the changes that occurred since the 2019 annual meeting. First, two additional years were added for 2023, and populated based on the NMFS schedule and standard ASMFC assessment frequencies.

The Horseshoe Crab Adaptive Resource Management, or ARM framework benchmark was added to the schedule in 2021. That was already scheduled for that time, but the ARM hadn't been included on the schedule previously. Jonah crab was tentatively scheduled for 2023 for a first-time assessment. The details are still being sorted out on that.

One of the key challenges that ASC discussed was that there is a bottleneck of assessments scheduled for 2022. On the last schedule that was approved by the Board there were 11 benchmarks and 4 assessments scheduled in 2022. To try to reduce some of this bottleneck, the ASC recommended the following changes.

One, to shift croaker to 2024 from 2022, shift Atlantic sturgeon from 2022 to 2024, and to shift spot from 2022 to 2024. The river herring assessment, there was also a recommendation to shift that on the schedule to 2023. This is really just to reflect the substantial workload and time that is needed to complete that update.

Finally, striped bass on the schedule remained the same as the last approved schedule, which is with a tentative assessment update in 2021. However, the ASC recommended consulting the Striped Bass Management Board and Technical Committee on the pros and cons of shifting the update to a later year. This is the final proposed schedule from ASC, and with that I would be happy to take any questions.

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

CHAIRMAN KELIHER: Thank you, Sarah, are there any questions from the Policy Board. Not seeing any questions, coming up right now we do have some suggested schedule changes that have been presented. Does anybody have any concerns regarding the schedule changes that have been presented?

EXECUTIVE DIRECTOR BEAL: This is Bob Beal really quick, Pat.

CHAIRMAN KELIHER: Go ahead, Bob.

EXECUTIVE DIRECTOR BEAL: The only one that popped into my head, and I should have talked to staff about it earlier is, delaying sturgeon until 2024. I don't know if that causes any problems with any pending ESA reviews that NOAA Fisheries might be having, given the threatened and endangered listing of Atlantic sturgeon up and down the coast. I'm not sure if the Management Science Committee thought about that, or if that is something as staff we need to go back and check on. But just, the thought just popped in my head.

CHAIRMAN KELIHER: No, I appreciate that, Bob. I think that is considering some conversations around possible changes in the future. I would recommend that staff check into that, just to make sure we're not going to be missing any deadlines, as far as an assessment, because if we could see changes in any listing criteria based on that assessment, that would be a good thing. Go ahead, Sarah.

MS. MURRAY: Yes, if you don't mind. I just wanted to note, and other staff please chime in if I'm mischaracterizing this. But I believe we were looking into this both in regards to river herring and Atlantic sturgeon, and we didn't think that this would present an issue for Atlantic sturgeon. Toni or Katie, if you have other information, let me know.

MS. KERNS: I think we'll have to check in with NOAA Fisheries. I did check on the shad and river herring question, but I did not check in on sturgeon. I do know that they, the habitat is in

the process of doing a couple workshops right now that got delayed due to COVID, so we'll check in with them and get back to the Board if there are any problems.

CHAIRMAN KELIHER: I'm not sure we need to deal with this with a motion. We've got schedule changes that have been presented by Sarah on behalf of the Science and Assessment Committee. With the one change going that we'll be checking back in with the Agency on sturgeon. Does anybody have any objections that they would like to bring up around the schedule?

MS. KERNS: Pat, I just wanted to let you know that Justin Davis had his hand up. Maybe it was a question, I'm not sure. It was up before you asked.

CHAIRMAN KELIHER: Justin, do you have a question, or is that remaining from the last topic?

DR. DAVIS: I did have a question, thanks Mr. Chairman. I just wanted to be clear that in the new proposed schedule there is still an update scheduled for striped bass in 2021.

MS. MURRAY: Yes, that is correct.

DR. DAVIS: Okay, thank you.

CHAIRMAN KELIHER: Thanks, Justin, sorry I missed your hand. Anybody else? Last call for objections to modification of the schedule. Hearing no objections, it is consensus that the schedule be modified as presented. Thank you very much, Sarah. Any other issues, Sarah, that you need to bring before the Policy Board?

MS. MURRAY: No, that is everything for me, thank you.

CHAIRMAN KELIHER: Great, thank you very much. Let's quickly shift gear and go to the Habitat Committee Report.

These minutes are draft and subject to approval by the ISFMP Policy Board .
The Board will review the minutes during its next meeting

**ATLANTIC COASTAL FISHERIES HABITAT
PARTNERSHIP**

DR. LISA HAVEL: I'll wait for the presentation to come up. If you don't mind, I'll start with the ACFHP update, and then move to Habitat Committee, since ACFHP should be a little bit quicker.

CHAIRMAN KELIHER: That would be great.

DR. HAVEL: Okay, and then I'll take questions on both updates at the end. The Steering Committee met virtually May 26-27. They received updates on current on-the-ground projects, and update on the conservation mapping project, which is very close to completion now. They discussed outreach and communication initiatives, came to consensus on the Melissa Laser Award recipient for 2020, and reviewed the 2020-2021 Action Plan.

The fiscal year 2021 National Fish Habitat Action Plan U.S. Fish and Wildlife Service on the Ground Conservation Funding RFP will be released in August this year. It's slightly delayed, in order to incorporate the completed habitat mapping prioritization that we're wrapping up right now. For those interested, if you want to see the announcement when it does get released, please sign up for our newsletter, or follow us on Facebook.

You can do both of those via our website, Atlanticfishhabitat.org. Regarding project funding since the last time I provided an update. ACFHP received Fish America Foundation funding, a small grant, and this project is being led by the Fish and Wildlife Conservation Commission, Fish and Wildlife Research Institute.

Currently, Florida Bay is experiencing sponge loss due to algal blooms, and so this project is growing 5,000 sponges for out-planting. These sponges will benefit gray snapper, spiny lobster, and other species as well. ACFHP also received funding from NOAA Recreational Fishing, and this funding will go towards a one-acre oyster

reef restoration project on the eastern branch of the Lynnhaven River in Virginia.

This project is being led by the Chesapeake Bay Foundation, and Lynnhaven River Now, and they are going to be actively engaging with fishers through site location for the oyster reef, and also via outreach at the Virginia Rod and Reef Slam: Angling for Oyster Restoration. To be determined whether that will still take place in 2020, but if not, there is opportunity in 2021. We received funding through the U.S. Fish and Wildlife Service NFHP as well. We put funding towards four different on-the-ground projects this year. The first one is Magothy River Shoreline Restoration in Maryland. This will restore 500 linear feet of shoreline, to reduce chronic erosion. They're using seeded reef balls and woody tree boles and root fans, and this will establish needed plan tidal wetlands.

The second project is the County Line Dam Removal in New Jersey. This will remove the second dam on the Paulinskill, in order to open 3.5 river miles. Between this dam, the Columbia Dam removal, which we helped to fund in 2018, and the Paulina Dam, which is scheduled to be removed soon as well. In total it will open 45 river miles for shad and river herring.

The third project is an oyster reef restoration project in Mosquito Lagoon, Florida. This will restore 420 linear feet of habitat, and reduce erosion from boat leaks. Finally, we are helping to fund a stream restoration project on the Town Brook, which is in Plymouth, Massachusetts. This will be replacing a 60-foot Alaskan seep pass with a 420-foot bypass channel with 2 percent slope and several resting pools.

It will open access to 269 acres of alewife spawning habitat. In total we're putting \$161,934.00 directly to on the ground restoration this year, the ACFHP funding. We also endorsed a project. The upper and lower Kickemuit River Dam Removal. This is being led by Bristol County Water Authority and Save the

Bay, and it's taking place in Warren, Rhode Island.

The Dam was created in 1954 to protect water supply from tidal inundation after Hurricane Carol, but is no longer being used. This removal will open 8 square miles for river herring and other species. ACFHP as usual would like to thank ASMFC for your continued operational support, and I'll move right into the Habitat Committee Report, and then happy to take any questions on both at the end.

HABITAT COMMITTEE

DR. HAVEL: The Habitat Committee met virtually May 28 to 29. They received updates on the documents in progress, acoustic impacts to fish habitat, fish habitats of concern document, as well as the habitat hotline. We received an update on the Northeast Regional Habitat Assessment, as well as an ACFHP update.

We had a discussion on clean water and ecological flows. The Habitat Committee decided that their next habitat management series document should focus on dissolved oxygen and pH based on this discussion. Finally, there was a discussion on living shorelines impacts to SAV, and I'll go into more details on the next couple slides for that.

There was a background document on this included in your briefing materials, and I'll hit the highlights in the next couple slides. Living shorelines when properly sited are a great alternative to hardened shorelines. They incorporate vegetation or other natural soft elements, and they promote shoreline stabilization, wave attenuation.

They help with erosion control, and they improve fish habitat. The Habitat Committee supports the use of these softer, more ecologically beneficial means of protecting and stabilizing shoreline. There has been streamlined permitting developed on state and federal levels, and living shorelines preference

has been codified in some state laws and regulations. There have generally been positive developments in terms of living shorelines. However, some states are placing living shorelines in close proximity to submerged aquatic vegetation beds, directly or indirectly impacting this important habitat for many Commission-managed species. Submerged Aquatic Vegetation is an Essential Fish Habitat and Habitat Area of Particular Concern for multiple species.

The ASMFC updated our SAV Policy in 2018, emphasizing its importance. The Habitat Committee recommends that shoreline stabilization alternatives to avoid or minimize impacts to SAV should be considered. Hierarchical approach to siting and design of living shorelines that incorporates avoidance and minimization measures, should be demonstrated before unavoidable impacts to SAV are considered.

Because of the ecological importance of SAV, increasing instances of living shorelines and nature-based projects being proposed in conflict with SAV, continued reported losses of SAV along the Atlantic coast and worldwide, and difficulties associated with mitigating and restoring SAV that has been damaged or lost. The Habitat Committee requests the Policy Board approve the development of a living shoreline's policy that would be protective of SAV.

They are asking to draft a policy, and then the Policy Board would have the ability to provide input on this draft policy, and pass or not pass the policy. The request is just to go ahead with developing a draft for you all to review at a future date. As always, we welcome suggestions for action items that you would like the Committee to work on, and I'm happy to take any questions.

CHAIRMAN KELIHER: Great, thank you, Lisa. Are there any questions for Lisa on either of those presentations? Not seeing a lot of hands go up. Any objections to the development of a

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

draft policy by the Habitat Committee as it pertains to SAVs and Living Shorelines? Steve Murphy.

STEVEN W. MURPHY: I don't have an objection to them developing a policy, but I do believe this is not a one-size-fits-all approach, and I think I understand the concerns of the Committee, where certain states have allowed the development of living shorelines on SAV. In North Carolina at least, we have general regional permit or general permit that we use through our coastal management.

We also have those same considerations for protection of SAV built into the nationwide regional conditions, which is an option available to any state to do that, as well working with your regional Corp office. I just want to caution that I don't think one-size-fits-all approaches are the way to do this. I know it's just a policy, but policies have a tendency to be held over us from time to time on the state level. I just wanted to make those comments as they move forward.

CHAIRMAN KELIHER: On that particular topic, I was going to ask a question of Lisa. Have you consulted with the different state coastal programs around this who are utilizing living shoreline approaches?

DR. HAVEL: Well, this came up through the Habitat Committee so all of the state representatives on the Committee were at the discussion back in May. We heard from multiple states that this is an issue. It is not an issue in every state in the ASMFC, but it was enough of a concern amongst the group that they thought a policy would be warranted. There also seemed to be agreement from NOAA in the northeast region that it would be helpful as well for their purposes.

CHAIRMAN KELIHER: Great, thank you. I've got Lynn Fegley.

MS. FEGLEY: Thank you, Lisa. Just help me understand. I think it's fine to go ahead and

jack the policy and see what it looks like. But I guess I'm a little confused. If living shorelines are being placed in proximity to SAV beds and potentially causing harm, isn't that better than putting a hardened shoreline there? Is it the idea that those areas just there is no option? Do you see what I'm saying? I'm not sure if there is a shoreline problem and an SAV bed at the same time, is the policy going to try to help lead people to the best-case solution?

DR. HAVEL: That's a good question, and I think that's why they would like to help develop with a hierarchical approach. In most cases living shorelines are recommended over hardened shorelines, but the Habitat Committee thinks that there might be a happy medium, or you could put possibly breakers or something farther out away from the shore, and not in conflict with SAV that might help protect with some of the erosion.

Also, having SAV in general helps promote shoreline stabilization to where you might not even need a living shoreline to begin with. They want to have all of those options in the policy, so that it's not just going to be, well you can't put a living shoreline, you're going to end up with riff raff. It's not going to be a one-size-fits-all like that.

MS. FEGLEY: Gotcha.

CHAIRMAN KELIHER: Cheri Patterson.

MS. PATTERSON: I find good utility in this, and I would definitely be for this sort of action. Generally, my experience is that it provides more than a unilateral utility. Then it provides many sorts of options for us to consider in a policy atmosphere.

CHAIRMAN KELIHER: I don't have any more hands up right now. I think you've got a green light, Lisa, to go ahead and develop a draft policy to present back to the Policy Board for a future meeting to continue discussion. I appreciate the presentation on both of those areas, so thank you very much. We're about five minutes over. I am pleased to announce

These minutes are draft and subject to approval by the ISFMP Policy Board .
The Board will review the minutes during its next meeting

Draft Proceedings of the ISFMP Policy Board Webinar
August 2020

that the last agenda item is review of noncompliance actions, and why I'm pleased is we don't have any reviews of noncompliant actions.

That is good news for the Commission.

ADJOURNMENT

CHAIRMAN KELIHER: Is there any other business to be brought before the Policy Board today? I am seeing no hands, so with that a motion to adjourn would be in order. Mel Bell has motioned to adjourn and I think Justin Davis has seconded it, so with that thank you very much. I appreciate everybody's time and energy here today, and good luck with the remainder of the Commission meetings.

(Whereupon the meeting adjourned at 12:20
p.m. on August 5, 2020)



Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201
703.842.0740 • 703.842.0741 (fax) • www.asmfmc.org

MEMORANDUM

TO: Executive Committee
FROM: Toni Kerns, ISFMP Director
DATE: July 28, 2020

The Commission's South Atlantic State/Federal Management Board (Board) is responsible for the management of 7 species: Atlantic cobia, spot, Spanish mackerel, red drum, black drum, Atlantic croaker, and spotted sea trout. The number of species managed under this Board has increased over time. The Board is made up of the states from Florida to New York but different states have declared interest in different species. For example, the states from New York to Florida have a declared interest in Spanish mackerel, New Jersey to Florida for Atlantic croaker, and Maryland to Florida for spotted seatrout. Due to the large number of species managed by this Board, the length of their meetings has increased in recent time. Depending on the species being discussed, several states on the Board will have "down time" until issues related to the relevant species are addressed in the agenda.

Both Atlantic cobia and Spanish mackerel have seen an increase in commercial harvest over the past three decades (Table 1 and 2). There has been an interest by some of the more northern states to declare an interest for one or both of these species but not for the sciaenids managed under the Board. In order to make the best use of Commissioner time and keep the meetings at reasonable lengths, staff is recommending to divide the board into two: the first a pelagics board managing Atlantic cobia and Spanish mackerel and second a sciaenids board managing spot, red drum, black drum, Atlantic croaker, and spotted sea trout.

M20-90

Table 1. Commercial Atlantic Cobia Landings 1980-2019 (data source: ACCSP; C=confidential)

Year	MA	RI	CT	NY	NJ	DE	MD	PRFC	VA	NC	SC	GA	
1980									1,400	5,128	C	497	
1981									1,400	5,260	C	1,126	
1982							100		2,000	10,574	C	2,304	
1983									900	4,279	C	1,497	
1984									1,900	6,701	C	2,570	
1985	100						100		2,300	6,640	1,464	611	
1986									1,200	18,303	3,690	2,561	
1987				100					300	32,672	4,718	2,705	
1988					100				5,700	15,690	5,224	1,924	
1989					200		300		10,600	14,898	6,835	440	
1990			194		17	1,649		431	16,532	21,938	1,802	1,367	
1991						1,155		2,045	11,743	23,217	3,005	2,651	
1992			157			1,037		1,882	6,110	18,534	6,925	2,187	
1993			28			792		471	5,986	20,431	9,092	2,730	
1994				165	483		C		7,817	30,586	5,488	2,483	
1995			518		411	1,736	C		22,011	35,143	6,133	1,543	
1996		C		C		2,295	C		C	33,404	4,483	675	
1997		C			89	3,989		377	11,710	42,063	3,513	1,742	
1998		C			60	2,853	C		13,419	22,197	C	C	
1999		C			46	1,432	C		5,808	15,491	C	C	
2000		C			101	1,762	C		7,525	28,754	2,974	C	
2001			223		252	683	C		C	24,718	C	C	
2002	C	C			70	2,086	C		11,445	21,058	5,007	C	
2003			198		84	621	C	C	7,387	21,313	4,746	C	
2004		C			758	576		211	6,143	20,162	4,014	705	
2005		C		C		329	C		6,084	17,886	3,773	C	
2006					C			48	2,705	20,270	2,405	C	
2007			137	C		1,589	C		5,928	19,005	3,408	245	
2008		C		C	C		C		6,755	22,047	3,016	C	
2009	C		134	C		1,134		196	5,980	31,898	2,078	C	
2010		C		C		270	C		8,504	43,715	2,499	C	
2011			170		393.3	C	C		8,500	19,924	4,020	C	
2012			217.3		152	699	C		5,382	31,972	3,359	C	
2013			476		840.5	885	C	C	10,900	35,456	3,829	C	
2014		C			311	359	C		21,255	41,798	3,492	C	
2015		C			235	212	C		25,352	52,684	2,487	C	
2016			183		114	282	C	C	29,459	48,244	4,064	C	
2017			115		80	C	C		26,748	16,890	4,261	C	
2018			290	C	388	707	C		21,355	16,578	2,723	C	
2019			352		1191	1,367	C	C	2,375	31,647	21,553	2,447	C

Table 2. Commercial Spanish Mackerel Landing, 1980-2019 (data source: ACCSP; C=confidential)

Year	MA	RI	CT	NY	NJ	DE	MD	PRFC	VA	NC	SC	GA	FL
1980				100	600				8,300	75,306	6,769	1,491	9,811,053
1981				500	500				3,500	51,639	53	518	4,174,432
1982				1,000	200				12,700	189,217	C	745	3,758,603
1983	2,600	2,600		600	100				3,500	41,336	706		5,947,102
1984				300	100				10,000	127,467	1,321	C	2,397,373
1985				100					15,300	173,186	847	C	3,245,008
1986	600			3,200	1,500				168,400	232,197	6,375	1,335	3,256,777
1987	16,000	4,900		16,600	24,000		4,800		251,200	504,063	961	255	3,497,135
1988		3,400		19,200	16,900		4,300		291,600	438,222	1,029	726	3,071,687
1989	12,400	8,900		17,700	24,100		10,400		354,400	589,383	1,605	C	2,853,177
1990	6,585	5,530		24,329	28,336		43,411		491,651	838,914	284	491	1,978,819
1991	19,698	9,530		149,321	77,151		62,688		447,127	858,808	C	C	2,972,167
1992	608	2,277		31,873	51,751		37,930		271,313	738,362	1,952	71	2,028,703
1993	5	2,843		42,063	23,036		9,445		335,688	589,868	C	95	3,903,498
1994	C	893		124,733	19,915		3,363		376,818	531,371	362	C	3,098,336
1995		12,419	2	9,136	2,153		3,089		168,732	402,392	135	C	3,064,926
1996		2,523	8	17,980	40,821		C		283,750	401,839	236	C	2,244,667
1997	C	86		31,107	12,122		C		164,639	766,958	66	C	2,269,289
1998	C	109		37,238	13,242		C		121,109	372,415	160	C	2,498,458
1999	C	276		47,831	17,144		C		251,626	459,100		C	1,566,706
2000	C	188		35,825	11,757		C		C	659,726	192	C	1,675,458
2001	C	20,052		13,851	9,401	C	C		178,610	653,673		C	2,115,774
2002	C	C	3	18,741	11,196		20,725		102,417	698,448	9	C	1,994,195
2003	C	366		18,339	5,432		5,239		C	456,784	214	C	2,739,176
2004	C	5,971		16,921	3,060		4,881		66,979	456,242		C	3,065,324
2005	C	294		5,197	2,074	15	7,750		43,579	446,001		C	3,132,626
2006				C	301		418		C	470,662	C		3,141,531
2007		2,143		7,240	2,075		3,755		58,064	487,879	C	C	3,263,245
2008		162		2,512	1,210	C	7,136		153,576	415,405		C	2,262,504
2009		218	C	3,463	3,324	C	C		137,924	961,811			2,629,343
2010		522	C	3,712	829		4,939		47,441	911,866	C		3,551,357
2011		1,795	C	1,147	305		5,093		36,271	871,217			3,432,932
2012		2,135		2,293	2,806		3,634		18,317	916,439			2,596,917
2013	C	C	C	4,467	265		2,553		7,746	620,752			2,265,390
2014	C	43	C	2,550	292		1,644		7,859	673,974	C		2,585,281
2015		C		1,357	2,746		2,228		14,472	561,407	28		1,807,967
2016		C		813	1,997	C	16,209		33,091	601,526	133		2,461,178
2017	C	652		1,053	462		817		26,178	816,017	135		2,672,655
2018	C	951		1,283	950		3,112		23,988	796,890	C		2,926,282
2019		1,484	C	5,683	2,010	C	C		189,739	722,396	C	C	2,998,800

Dated: September 24, 2020.

Paul N. Doremus,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 2020–21526 Filed 9–28–20; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 200911–0242]

RIN 0648–XT038

Atlantic Highly Migratory Species; 2021 Atlantic Shark Commercial Fishing Year

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would adjust quotas and retention limits and establish the opening date for the 2021 fishing year for the Atlantic commercial shark fisheries. Quotas would be adjusted as required or allowable based on any overharvests and/or underharvests experienced during the 2020 fishing year. NMFS proposes the opening date and commercial retention limits to provide, to the extent practicable, fishing opportunities for commercial shark fishermen in all regions and areas. The proposed measures could affect fishing opportunities for commercial shark fishermen in the northwestern Atlantic Ocean, the Gulf of Mexico, and the Caribbean Sea.

DATES: Written comments must be received by October 29, 2020.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2020–0108, by electronic submission. Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0108, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

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 NMFS. 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. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Copies of this proposed rule and supporting documents are available from the HMS Management Division website at <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species> or by contacting Lauren Latchford (lauren.latchford@noaa.gov) by phone at 301–427–8503.

FOR FURTHER INFORMATION CONTACT:

Lauren Latchford (lauren.latchford@noaa.gov), Guy Eroh (guy.eroh@noaa.gov), or Karyl Brewster-Geisz (karyl.brewster-geisz@noaa.gov) at 301–427–8503.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic commercial shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. For the Atlantic commercial shark fisheries, the 2006 Consolidated Atlantic HMS FMP and its amendments established default commercial shark retention limits, commercial quotas for species and management groups, and accounting measures for underharvests and overharvests. Regulations also include provisions allowing flexible opening dates for the fishing year and inseason adjustments to shark trip limits, which provide management flexibility in furtherance of equitable fishing opportunities, to the extent practicable, for commercial shark fishermen in all regions and areas.

2021 Proposed Commercial Shark Quotas

NMFS proposes adjusting the quota levels for the different shark stocks and management groups for the 2021 Atlantic commercial shark fishing year based on overharvests and underharvests that occurred during the 2020 fishing year, consistent with existing regulations at 50 CFR 635.27(b). Overharvests and underharvests are accounted for in the same region, sub-region, and/or fishery in which they occurred the following year, except that large overharvests may be spread over a

number of subsequent fishing years up to a maximum of five years. If a sub-regional quota is overharvested, but the overall regional quota is not, no subsequent adjustment is required. Unharvested quota may be added to the quota for the next fishing year, but only if NMFS knows the status of all species in the management group, none of the species in the group are overfished, and there is no overfishing in the group. No more than 50 percent of a base annual quota may be carried over from a previous fishing year.

Based on 2020 harvests to date, and after considering catch rates and landings from previous years, NMFS proposes to adjust the 2021 quotas for certain management groups as shown in Table 1. All of the 2021 proposed quotas for the respective stocks and management groups will be subject to further adjustment in the final rule after NMFS considers the dealer reports through mid-October. NMFS anticipates that dealer reports received after that time will be used to adjust 2021 quotas, as appropriate, noting that in some circumstances, NMFS re-adjusts quotas in the subject year.

Because the Gulf of Mexico blacktip shark management group and smoothhound shark management groups in the Gulf of Mexico and Atlantic regions are not overfished, and overfishing is not occurring, available underharvest (up to 50 percent of the base annual quota) from the 2020 fishing year for these management groups may be added to the respective 2021 base quotas. NMFS proposes to account for any underharvest of Gulf of Mexico blacktip sharks by dividing underharvest between the eastern and western Gulf of Mexico sub-regional quotas based on the sub-regional quota split percentage implemented in Amendment 6 to the 2006 Consolidated Atlantic HMS FMP (80 FR 50073; August 18, 2015).

For the sandbar shark, aggregated large coastal shark (LCS), hammerhead shark, non-blacknose small coastal shark (SCS), blacknose shark, blue shark, porbeagle shark, and pelagic shark (other than porbeagle or blue sharks) management groups, the 2020 underharvests cannot be carried over to the 2021 fishing year because those stocks or management groups are overfished, are experiencing overfishing, or have an unknown status. With the exception of the sub-regional western Gulf of Mexico overharvest of the aggregated LCS quota, which will be discussed below, there are no overharvests to account for in these management groups to date. Thus, NMFS proposes that quotas for these

management groups be equal to the annual base quota without adjustment, although the ultimate decision will be based on current data at the time of the final rule.

The proposed 2021 quotas by species and management group are summarized in Table 1; the description of the calculations for each stock and management group can be found below. All quotas and landings are dressed

weight (dw), in metric tons (mt), unless specified otherwise. Table 1 includes landings data as of July 10, 2020; final quotas are subject to change based on landings as of October 2020. 1 mt = 2,204.6 lb.

TABLE 1—2021 PROPOSED QUOTAS AND OPENING DATE FOR THE ATLANTIC SHARK MANAGEMENT GROUPS

Region or sub-region	Management group	2020 Annual quota (A)	Preliminary 2020 landings ¹ (B)	Adjustments ² (C)	2021 Base annual quota (D)	2021 Proposed annual quota (D + C)	Season opening dates
Western Gulf of Mexico	Blacktip Sharks ³	347.2 mt dw (765,392 lb dw).	204.4 mt dw (450,612 lb dw).	115.7 mt dw (255,131 lb dw).	231.5 mt dw (510,261 lb dw).	347.2 mt dw (765,392 lb dw).	January 1, 2021.
	Aggregated ⁴ Large Coastal Sharks.	72.0 mt dw (158,724 lb dw).	78.9 mt dw (173,959 lb dw).	.....	72.0 mt dw (158,724 lb dw).	72.0 mt dw (158,724 lb dw).
	Hammerhead Sharks	11.9 mt dw (26,301 lb dw).	<2.3 mt dw (<5,000 lb dw).	.....	11.9 mt dw (26,301 lb dw).	11.9 mt dw (26,301 lb dw).
Eastern Gulf of Mexico	Blacktip Sharks ³	37.7 mt dw (83,158 lb dw).	3.5 mt dw (7,726 lb dw).	12.6 mt dw (27,719 lb dw).	25.1 mt dw (55,439 lb dw).	37.7 mt dw (83,158 lb dw).	January 1, 2021.
	Aggregated Large Coastal Sharks.	85.5 mt dw (188,593 lb dw).	50.9 mt dw (112,266 lb dw).	.....	85.5 mt dw (188,593 lb dw).	85.5 mt dw (188,593 lb dw).
	Hammerhead Sharks	13.4 mt dw (29,421 lb dw).	<2.7 mt dw (<6,000 lb dw).	.....	13.4 mt dw (29,421 lb dw).	13.4 mt dw (29,421 lb dw).
Gulf of Mexico	Non-Blacknose Small Coastal Sharks.	112.6 mt dw (248,215 lb dw).	25.2 mt dw (55,563 lb dw).	112.6 mt dw (248,215 lb dw).	112.6 mt dw (248,215 lb dw).	January 1, 2021
	Smoothhound Sharks	504.6 mt dw (1,112,441 lb dw).	1.4 mt dw (3,144 lb dw).	168.2 mt dw (370,814 lb dw).	336.4 mt dw (741,627 lb dw).	504.6 mt dw (1,112,441 lb dw).	
Atlantic	Aggregated Large Coastal Sharks.	168.9 mt dw (372,552 lb dw).	36.8 mt dw (81,217 lb dw).	168.9 mt dw (372,552 lb dw).	168.9 mt dw (372,552 lb dw).	January 1, 2021
	Hammerhead Sharks	27.1 mt dw (59,736 lb dw).	10.6 mt dw (23,340 lb dw).	.....	27.1 mt dw (59,736 lb dw).	27.1 mt dw (59,736 lb dw).
	Non-Blacknose Small Coastal Sharks.	264.1 mt dw (582,333 lb dw).	44.0 mt dw (96,939 lb dw).	.....	264.1 mt dw (582,333 lb dw).	264.1 mt dw (582,333 lb dw).
	Blacknose Sharks (South of 34° N lat. only).	17.2 mt dw (37,921 lb dw).	2.6 mt dw (5,753 lb dw).	.....	17.2 mt dw (37,921 lb dw).	17.2 mt dw (37,921 lb dw).
No regional quotas	Smoothhound Sharks	1,802.6 mt dw (3,971,587 lb dw).	121.1 mt dw (266,965 lb dw).	600.9 mt dw (1,323,862 lb dw).	1,201.7 mt dw (2,649,268 lb dw).	1,802.6 mt dw (3,971,587 lb dw).	January 1, 2021.
	Non-Sandbar LCS Research.	50.0 mt dw (110,230 lb dw).	<2.5 mt dw (<5,500 lb dw).	.....	50.0 mt dw (110,230 lb dw).	50.0 mt dw (110,230 lb dw).
	Sandbar Shark Research.	90.7 mt dw (199,943 lb dw).	<4.5 mt dw (<10,000 lb dw).	.....	90.7 mt dw (199,943 lb dw).	90.7 mt dw (199,943 lb dw).
	Blue Sharks	273.0 mt dw (601,856 lb dw).	0 mt dw (0 lb dw) .....	.....	273.0 mt dw (601,856 lb dw).	273.0 mt dw (601,856 lb dw).
	Porbeagle Sharks	1.7 mt dw (3,748 lb dw).	0 mt dw (0 lb dw) .....	.....	1.7 mt dw (3,748 lb dw).	1.7 mt dw (3,748 lb dw).
	Pelagic Sharks Other Than Porbeagle or Blue.	488.0 mt dw (1,075,856 lb dw).	28.8 mt dw (63,485 lb dw).	488.0 mt dw (1,075,856 lb dw).	488.0 mt dw (1,075,856 lb dw).	

¹ Landings are from January 1, 2020, through July 10, 2020, and are subject to change.
² Underharvest adjustments can only be applied to stocks or management groups that are not overfished and have no overfishing occurring. Also, the underharvest adjustments cannot exceed 50 percent of the base annual quota.
³ This adjustment accounts for underharvest in 2020. This proposed rule would increase the overall Gulf of Mexico blacktip shark quota by 128.3 mt dw (282,850 lb dw). Since any underharvest would be divided based on the sub-regional quota percentage split, the western Gulf of Mexico blacktip shark quota would be increased by 115.7 mt dw, or 90.2 percent of the quota adjustment, while the eastern Gulf of Mexico blacktip shark quota would be increased by 12.6 mt dw, or 9.8 percent of the quota adjustment.
⁴ While there is an overharvest of the western Gulf of Mexico Aggregated LCS sub-regional quota in 2020, NMFS does not expect the full Gulf of Mexico regional quota to be filled, and is thus proposing to maintain the full baseline quota in 2021. However, if the Gulf of Mexico regional quota is filled or exceeded, the sub-regional quota would be adjusted accordingly.

1. Proposed 2021 Quotas for the Gulf of Mexico Region Shark Management Groups

The 2021 proposed commercial quota for blacktip sharks in the western Gulf of Mexico sub-region is 347.2 mt dw (765,392 lb dw) and the eastern Gulf of Mexico sub-region is 37.7 mt dw (83,158 lb dw; Table 1). As of July 10, 2020, preliminary reported landings for blacktip sharks in the western Gulf of Mexico sub-region were at 59 percent (204.4 mt dw) of their 2020 quota levels (347.2 mt dw), and blacktip sharks in the eastern Gulf of Mexico sub-region were at 9 percent (3.5 mt dw) of the sub-regional 2020 quota levels (37.7 mt dw). Reported landings in both sub-regions have not exceeded the 2020 quota to date. Gulf of Mexico blacktip sharks are not overfished, are not experiencing overfishing, and do not have an

unknown status. Pursuant to § 635.27(b)(2)(ii), underharvests for blacktip sharks within the Gulf of Mexico region therefore may be applied to the 2020 quotas, up to 50 percent of the base annual quota. Additionally, any underharvest would be divided between the two sub-regions, based on the percentages that are allocated to each sub-region, which are set forth in § 635.27(b)(1)(ii)(C). To date, the overall Gulf of Mexico blacktip shark management group is underharvested by 177.0 mt dw (390,212 lb dw). Accordingly, NMFS proposes to increase the western Gulf of Mexico blacktip shark quota by 115.7 mt dw or 90.2 percent of the quota adjustment, while the eastern Gulf of Mexico blacktip shark sub-regional quota would increase by 12.6 mt dw, or 9.8 percent of the quota adjustment (Table 1). Thus,

the proposed western sub-regional Gulf of Mexico blacktip shark commercial quota is 347.2 mt dw (765,392 lb dw), and the proposed eastern sub-regional Gulf of Mexico blacktip shark commercial quota is 37.7 mt dw (83,158 lb dw).

The 2021 proposed commercial quota for aggregated LCS in the western Gulf of Mexico sub-region is 72.0 mt dw (158,724 lb dw), and the eastern Gulf of Mexico sub-region is 85.5 mt dw (188,593 lb dw; Table 1). As of July 10, 2020, preliminary reported landings for aggregated LCS in the western Gulf of Mexico sub-region were at 110 percent (78.9 mt dw) of the 2020 quota (72.0 mt dw), while the aggregated LCS in the eastern Gulf of Mexico sub-region were at 60 percent (50.9 mt dw) of the 2020 quota levels (85.5 mt dw). While the aggregated LCS management group

landings have been exceeded in the western Gulf of Mexico sub-region, the current combined catch rates for both sub-regions (82 percent; 129.8 mt dw) indicate that the overall regional 2020 quota is not likely to be exceeded before the end of the fishing year. NMFS will continue to monitor these landings for the remainder of the 2020 fishing year. If the combined aggregated LCS quotas are exceeded, then the 2020 quota would be adjusted to account for any overharvest.

The 2021 proposed commercial quotas for hammerhead sharks in the eastern Gulf of Mexico sub-region and western Gulf of Mexico sub-region are 11.9 mt dw (26,301 lb dw) and 13.4 mt dw (29,421 lb dw), respectively (Table 1). As of July 10, 2020, preliminary reported landings for hammerhead sharks in the western Gulf of Mexico sub-region were less than 20 percent (<2.3 mt dw) of the 2020 quota levels (11.9 mt dw), while landings of hammerhead sharks in the eastern Gulf of Mexico sub-region were at less than 20 percent (<2.7 mt dw) of the 2020 quota levels (13.4 mt dw). Reported landings from both Gulf of Mexico and Atlantic regions have not exceeded the 2020 overall hammerhead quota to date. Given the overfished status of the scalloped hammerhead shark, the hammerhead shark quota cannot be adjusted for any underharvests. Therefore, based on both preliminary estimates and catch rates from previous years and the fact that the 2020 overall hammerhead shark quota has not been overharvested to date, and consistent with the current regulations at § 635.27(b)(2)(ii), NMFS proposes that the 2021 quotas for hammerhead sharks in the western Gulf of Mexico and eastern Gulf of Mexico sub-regions be equal to their annual base quotas without adjustment.

The 2021 proposed commercial quota for non-blacknose SCS in the Gulf of Mexico region is 112.6 mt dw (248,215 lb dw). As of July 10, 2020, preliminary reported landings of non-blacknose SCS were at 22 percent (25.2 mt dw) of their 2020 quota level (112.6 mt dw) in the Gulf of Mexico region. Reported landings have not exceeded the 2020 quota to date. Given the unknown status of bonnethead sharks within the Gulf of Mexico non-blacknose SCS management group, underharvests cannot be carried forward, pursuant to § 635.27(b)(2)(ii). Based on both preliminary estimates and catch rates from previous years, and because there have not been any overharvests, NMFS proposes that the 2021 quota for non-blacknose SCS in the Gulf of Mexico region be equal to the annual base quota without adjustment.

The 2021 proposed commercial quota for smoothhound sharks in the Gulf of Mexico region is 504.6 mt dw (1,112,441 lb dw). As of July 10, 2020, preliminary reported landings of smoothhound sharks were less than 1 percent (1.4 mt dw) in the Gulf of Mexico region. Gulf of Mexico smoothhound sharks are not overfished, are not experiencing overfishing, and do not have an unknown status. Pursuant to § 635.27(b)(2)(ii), underharvests for smoothhound sharks within the Gulf of Mexico region therefore could be added to the 2021 quotas up to 50 percent of the base annual quota. Accordingly, NMFS proposes to increase the 2021 Gulf of Mexico smoothhound shark quota to adjust for anticipated underharvests in 2020 to the full extent allowed. The proposed 2021 adjusted base annual quota for Gulf of Mexico smoothhound sharks is 504.6 mt dw (336.4 mt dw annual base quota + 168.2 mt dw 2020 underharvest = 504.6 mt dw 2021 adjusted annual quota).

2. Proposed 2021 Quotas for the Atlantic Region Shark Management Groups

The 2021 proposed commercial quota for aggregated LCS in the Atlantic region is 168.9 mt dw (372,552 lb dw). As of July 10, 2020, the aggregated LCS fishery in the Atlantic region is still open, and preliminary landings indicate that only 22 percent (36.8 mt dw) of the quota has been harvested. Given the unknown status of some of the shark species within the Atlantic aggregated LCS management group, underharvests cannot be carried over pursuant to § 635.27(b)(2)(ii). Therefore, based on both preliminary estimates and catch rates from previous years, and consistent with current regulations at § 635.27(b)(2), NMFS proposes that the 2021 quota for aggregated LCS in the Atlantic region be equal to the annual base quota without adjustment, because there have not been any overharvests, and underharvests cannot be carried over due to stock status.

The 2021 proposed commercial quota for hammerhead sharks in the Atlantic region is 27.1 mt dw (59,736 lb dw). Currently, the hammerhead shark fishery in the Atlantic region is still open and preliminary landings as of July 10, 2020, indicate that 39 percent (10.6 mt dw) of the Atlantic regional quota has been harvested. Reported landings from both Gulf of Mexico and Atlantic regions have not exceeded the 2020 overall hammerhead quota to date. Given the overfished status of hammerhead sharks, underharvests cannot be carried forward pursuant to § 635.27(b)(2)(ii). Therefore, based on both preliminary estimates and catch

rates from previous years, and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2021 quota for hammerhead sharks in the Atlantic region be equal to the annual base quota without adjustment.

The 2021 proposed commercial quota for non-blacknose SCS in the Atlantic region is 264.1 mt dw (582,333 lb dw). As of July 10, 2020, preliminary reported landings of non-blacknose SCS were at 17 percent (44.0 mt dw) of the 2020 quota level in the Atlantic region. Reported landings have not exceeded the 2020 quota to date. Given the unknown status of bonnethead sharks within the Atlantic non-blacknose SCS management group, underharvests cannot be carried forward pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates of catch rates from previous years, and consistent with the current regulations at § 635.27(b)(2), NMFS proposes that the 2021 quota for non-blacknose SCS in the Atlantic region be equal to the annual base quota without adjustment.

The 2021 proposed commercial quota for blacknose sharks in the Atlantic region is 17.2 mt dw (37,921 lb dw). This quota is available in the Atlantic region only for those vessels operating south of 34° N latitude. North of 34° N latitude, retention, landing, or sale of blacknose sharks is prohibited. NMFS is not proposing any adjustments to the blacknose shark quota at this time. As of July 10, 2020, preliminary reported landings of blacknose sharks were at 15 percent (2.6 mt dw) of the 2020 quota levels in the Atlantic region. Reported landings have not exceeded the 2020 quota to date. Pursuant to § 635.27(b)(2), because blacknose sharks have been declared to be overfished with overfishing occurring in the Atlantic region, NMFS could not carry forward the remaining underharvest. Therefore, NMFS proposes that the 2021 Atlantic blacknose shark quota be equal to the annual base quota without adjustment.

The 2021 proposed commercial quota for smoothhound sharks in the Atlantic region is 1,802.6 mt dw (3,973,902 lb dw). As of July 10, 2020, preliminary reported landings of smoothhound sharks were at 6.7 percent (121.1 mt dw) of their 2020 quota levels in the Atlantic region. Atlantic smoothhound sharks have not been declared to be overfished, to have overfishing occurring, or to have an unknown status. Pursuant to § 635.27(b)(2)(ii), underharvests for smoothhound sharks within the Atlantic region therefore could be applied to the 2021 quotas up to 50 percent of the base annual quota. Accordingly, NMFS proposes to increase the 2021 Atlantic smoothhound shark quota to adjust for

anticipated underharvests in 2020 as allowed. The proposed 2021 adjusted base annual quota for Atlantic smoothhound sharks is 1,802.6 mt dw (1,201.7 mt dw annual base quota + 600.9 mt dw 2019 underharvest = 1,802.6 mt dw 2021 adjusted annual quota).

3. Proposed 2021 Quotas for Shark Management Groups With No Regional Quotas

The 2021 proposed commercial quotas within the shark research fishery are 50 mt dw (110,230 lb dw) for research LCS and 90.7 mt dw (199,943 lb dw) for sandbar sharks. Within the shark research fishery, as of July 10, 2020, preliminary reported landings of research LCS were at less than 5 percent (<2.5 mt dw) of the 2020 quota, and sandbar shark reported landings were at less than 5 percent (<4.5 mt dw) of their 2020 quota. Under § 635.27(b)(2)(ii), because sandbar sharks and scalloped hammerhead sharks within the research LCS management group are either overfished or overfishing is occurring, underharvests for these management groups cannot be carried forward. Therefore, based on preliminary estimates, and consistent with the regulations at § 635.27(b)(2), NMFS proposes that the 2021 quota in the shark research fishery be equal to the annual base quota without adjustment because there have not been any overharvests, and because underharvests cannot be carried over due to stock status.

The 2021 proposed commercial quotas for blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle or blue sharks) are 273.0 mt dw (601,856 lb dw), 1.7 mt dw (3,748 lb dw), and 488.0 mt dw (1,075,856 lb dw), respectively. As of July 10, 2020, there were no preliminary reported landings of blue sharks or porbeagle sharks, and landings of pelagic sharks (other than porbeagle and blue sharks) were at 5.9 percent (28.8 mt dw) of the 2020 quota level (488.0 mt dw). Given that these pelagic species are overfished, have overfishing occurring, or have an unknown status, underharvests cannot be carried forward pursuant to § 635.27(b)(2)(ii). Therefore, based on preliminary estimates and consistent

with the current regulations at § 635.27(b)(2), NMFS proposes that the 2021 quotas for blue sharks, porbeagle sharks, and pelagic sharks (other than porbeagle and blue sharks) be equal to their annual base quotas without adjustment, because there have not been any overharvests and because underharvests cannot be carried over due to stock status.

Proposed Opening Date and Retention Limits for the 2021 Atlantic Commercial Shark Fishing Year

In proposing the commercial shark fishing season opening dates for all regions and sub-regions, NMFS considers regulatory criteria listed at § 635.27(b)(3) and other relevant factors such as the available annual quotas for the current fishing season, estimated season length and average weekly catch rates from previous years, length of the season and fishery participation in past years, impacts to accomplishing objectives of the 2006 Consolidated Atlantic HMS FMP and its amendments, temporal variation in behavior or biology of target species (e.g., seasonal distribution or abundance), impact of catch rates in one region on another, and effects of delayed openings.

In analyzing the criteria, NMFS examines the overharvests and underharvests of the different management groups in the 2020 fishing year to determine the likely effects of the proposed commercial quotas for 2021 on shark stocks and fishermen across regional and sub-regional fishing areas. NMFS also examines the potential season length and previous catch rates to ensure, to the extent practicable, that equitable fishing opportunities be provided to fishermen in all areas. Lastly, NMFS examines the seasonal variation of the different species/management groups and the effects on fishing opportunities. At the start of each fishing year, the default commercial retention limit is 45 LCS other than sandbar sharks per vessel per trip in the eastern and western Gulf of Mexico sub-regions and in the Atlantic region, unless NMFS determines otherwise and files with the Office of the Federal Register for publication notification of an inseason adjustment. NMFS may adjust the retention limit

from zero to 55 LCS other than sandbar sharks per vessel per trip if the respective LCS management group is open under §§ 635.27 and 635.28, after considering the six “inseason trip limit adjustment criteria” listed at § 635.24(a)(8). Those criteria are: The amount of remaining shark quota in the relevant area, region, or sub-region, to date, based on dealer reports; the catch rates of the relevant shark species/complexes in the region or sub-region, to date, based on dealer reports; the estimated date of fishery closure based on when the landings are projected to reach 80-percent of the quota given the realized catch rates and whether they are projected to reach 100 percent before the end of the fishing season; effects of the adjustment on accomplishing the objectives of the 2006 Consolidated Atlantic HMS FMP and its amendments; variations in seasonal distribution, abundance, or migratory patterns of the relevant shark species based on scientific and fishery-based knowledge; and/or effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the relevant quota.

After considering all these criteria, NMFS is proposing to open the 2021 Atlantic commercial shark fishing season for all shark management groups in the northwestern Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, on January 1, 2021, after the publication of the final rule for this action (Table 2). NMFS proposes to open the season on January 1, 2021, but recognizes that the actual opening date is contingent on publication in the **Federal Register**, and may vary accordingly. NMFS is also proposing to start the 2021 commercial shark fishing season with the commercial retention limit of 45 LCS other than sandbar sharks per vessel per trip in both the eastern and western Gulf of Mexico sub-regions, and a commercial retention limit of 36 LCS other than sandbar sharks per vessel per trip in the Atlantic region (Table 2). Proposed retention limits could change as a result of public comments as well as updated catch rates and landings information available when drafting the final rule.

TABLE 2—QUOTA LINKAGES, SEASON OPENING DATES, AND COMMERCIAL RETENTION LIMIT BY REGIONAL OR SUB-REGIONAL SHARK MANAGEMENT GROUP

Region or sub-region	Management group	Quota linkages	Season opening date	Commercial retention limits for directed shark limited access permit holders (inseason adjustments are possible)
Western Gulf of Mexico	Blacktip Sharks Aggregated Large Coastal Sharks. Hammerhead Sharks.	Not Linked Linked.	January 1, 2021	45 LCS other than sandbar sharks per vessel per trip.

TABLE 2—QUOTA LINKAGES, SEASON OPENING DATES, AND COMMERCIAL RETENTION LIMIT BY REGIONAL OR SUB-REGIONAL SHARK MANAGEMENT GROUP—Continued

Region or sub-region	Management group	Quota linkages	Season opening date	Commercial retention limits for directed shark limited access permit holders (inseason adjustments are possible)
Eastern Gulf of Mexico	Blacktip Sharks Aggregated Large Coastal Sharks. Hammerhead Sharks.	Not Linked Linked.	January 1, 2021	45 LCS other than sandbar sharks per vessel per trip.
Gulf of Mexico	Non-Blacknose Small Coastal Sharks. Smoothhound Sharks	Not Linked	January 1, 2021	N/A.
Atlantic	Aggregated Large Coastal Sharks. Hammerhead Sharks	Not Linked Linked	January 1, 2021 January 1, 2021	N/A. 36 LCS other than sandbar sharks per vessel per trip. If quota is landed quickly (e.g., if approximately 40 percent of quota is caught at the beginning of the year), NMFS anticipates considering an inseason reduction (e.g., to 3 or fewer LCS other than sandbar sharks per vessel per trip), then an inseason increase to 36 LCS other than sandbar sharks per vessel per trip around July 15, 2021. ¹
	Non-Blacknose Small Coastal Sharks. Blacknose Sharks (South of 34° N lat. only). Smoothhound Sharks	Linked (South of 34° N lat. only). Not Linked	January 1, 2021 January 1, 2021	N/A. 8 Blacknose sharks per vessel per trip (applies to directed and incidental permit holders). N/A.
No regional quotas	Non-Sandbar LCS Research. Sandbar Shark Research. Blue Sharks	Linked	January 1, 2021	N/A.
	Porbeagle Sharks. Pelagic Sharks Other Than Porbeagle or Blue.	Not Linked	January 1, 2021	N/A.

¹ NMFS is proposing changing the percent of quota harvested at which it considers adjusting the retention limit. Rather than 35 percent, NMFS would consider adjustment to 40 percent to allow fishermen in the Atlantic region to more fully utilize the quota.

In the eastern and western Gulf of Mexico sub-regions, NMFS proposes opening the fishing season on January 1, 2021, for the aggregated LCS, blacktip sharks, and hammerhead shark management groups, with the commercial retention limits of 45 LCS other than sandbar sharks per vessel per trip for directed shark permits. This opening date and retention limit combination would provide, to the extent practicable, equitable opportunities across the fisheries management sub-regions. This opening date takes into account all the season opening criteria listed in § 635.27(b)(3), and particularly the criteria that require NMFS to consider the length of the season for the different species and/or management groups in the previous years (§ 635.27(b)(3)(ii) and (iii)) and whether fishermen were able to participate in the fishery in those years (§ 635.27(b)(3)(v)). The proposed commercial retention limits take into account the criteria listed in § 635.24(a)(8), and particularly the criterion that requires NMFS to consider the catch rates of the relevant shark species/complexes based on dealer reports to date (§ 635.24(a)(8)(ii)). NMFS may also adjust the retention limit in the Gulf of Mexico region throughout the season to ensure fishermen in all parts of the region have an opportunity

to harvest aggregated LCS, blacktip sharks, and hammerhead sharks (see the criteria listed at § 635.27(b)(3)(v) and § 635.24(a)(8)(ii), (v), and (vi)). For both the eastern and western Gulf of Mexico sub-regions combined, dealer reports received through July 10, 2020, indicate that 58 percent (200.4 mt dw), 110 percent (78.9 mt dw), and less than 15 percent (<0.5 mt dw) of the available blacktip, aggregated LCS, and hammerhead shark quotas, respectively, has been harvested. Therefore, for 2021, NMFS is considering opening both the western and eastern Gulf of Mexico sub-regions with a commercial retention limit of 45 sharks other than sandbar sharks, per vessel per trip.

In the Atlantic region, NMFS proposes opening the aggregated LCS and hammerhead shark management groups on January 1, 2021. This opening date also takes into account all the criteria listed in § 635.27(b)(3), and particularly the criterion that NMFS consider the effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the different species and/or management quotas (§ 635.27(b)(3)(v)). The 2020 data indicates that an opening date of January 1, coupled with inseason adjustments to the retention limit, provided a reasonable opportunity for

fishermen in every part of each region to harvest a portion of the available quotas (§ 635.27(b)(3)(i)), while accounting for variations in seasonal distribution of the different species in the management groups (§ 635.27(b)(3)(iv)). Because the quotas we propose for 2021 are the same as the quotas in 2020, NMFS proposes that the season lengths, and therefore, the participation of various fishermen throughout the region, would be similar in 2021 (§ 635.27(b)(3)(ii) and (iii)). Based on the recent performance of the fishery, the January 1 opening date appears to meet the objectives of the 2006 Consolidated Atlantic HMS FMP and its amendments (§ 635.27(b)(3)(vi)). NMFS' review of the landings data from 2016 to the present has shown a decrease in landings over time in the aggregated LCS and hammerhead management groups. In the Final Rule to Establish Adjusted Base Annual Quotas, Opening Dates, and Retention Limits for the 2020 Atlantic Shark Commercial Fishing Year (84 FR 65690; November 29, 2019), NMFS increased the starting retention limit from 25 to 36, and the percentage threshold from 20 to 35 percent. NMFS proposes to follow the same trip adjustment criteria in 2021, but because landings continue to remain low, NMFS is proposing to change the percent of quota harvested at which it

considers adjusting the retention limit from 35 to 40 percent. Changing the percent of quota harvested could allow fishermen in the Atlantic region to more fully utilize the quota. Changing the percentage of quota harvested is a management benchmark NMFS has used (and announced as part of the rulemaking process) in previous seasons to help determine at which point it will consider an inseason action to adjust the retention limits.

In addition, for the aggregated LCS and hammerhead shark management groups in the Atlantic region, NMFS proposes opening the fishing year with the commercial retention limit for directed shark limited access permit holders of 36 LCS other than sandbar sharks per vessel per trip. This retention limit should allow fishermen to harvest some of the 2021 quota at the beginning of the year when sharks are more prevalent in the South Atlantic area (see the criteria at § 635.24(a)(3)(i), (ii), (v), and (vi)). As was done in 2020, if it appears that the quota is being harvested too quickly to allow directed fishermen throughout the entire region an opportunity to fish and ensure enough quota remains until later in the year, NMFS would consider either reducing the commercial retention limits to incidental levels (3 LCS other than sandbar sharks per vessel per trip), or setting another level calculated to reduce the harvest of LCS in accordance with the opening commercial fishing season criteria listed in § 635.27(b)(3) and the inseason trip limit adjustment criteria listed in § 635.24(a)(8). If the quota continues to be harvested quickly, NMFS could consider reducing the retention limit to 0 LCS other than sandbar sharks per vessel per trip to ensure enough quota remains until later in the year. If either situation occurs, NMFS would publish in the **Federal Register** notification of any inseason adjustments of the retention limit. NMFS will consider increasing the commercial retention limits per trip at a later date, after considering the appropriate inseason adjustment criteria, if necessary to provide fishermen in the northern portion of the Atlantic region an opportunity to retain aggregated LCS and hammerhead sharks. Similarly, at some point later in the year, NMFS may consider increasing the retention limit to a higher retention limit of aggregated LCS other than sandbar sharks per vessel per trip, as deemed appropriate, after considering the inseason trip limit adjustment criteria. If the quota is being harvested too quickly or too slowly, NMFS could adjust the retention limit appropriately

to ensure the fishery remains open most of the rest of the year.

All of the shark management groups would remain open until December 31, 2021, or until NMFS determines that the landings for any shark management group are projected to reach 80 percent of the quota given the realized catch rates and whether they are projected to reach 100 percent before the end of the fishing season, or when the quota-linked management group is closed. If NMFS determines that a non-linked shark species or management group must be closed, then, consistent with § 635.28(b)(2) for non-linked quotas (e.g., eastern Gulf of Mexico blacktip, western Gulf of Mexico blacktip, Gulf of Mexico non-blacknose SCS, pelagic sharks, or the Atlantic or Gulf of Mexico smoothhound sharks), NMFS will publish in the **Federal Register** a notice of closure for that shark species, shark management group, region, and/or sub-region that will be effective no fewer than four days from the date of filing (This is pursuant to 50 CFR part 635, as most recently amended by the July 9, 2018, final rule (83 FR 31677) revising Atlantic highly migratory species shark fishery closure regulations). For the blacktip shark management group, regulations at § 635.28(b)(5)(i) through (v) authorize NMFS to close the management group before landings have reached or are projected to reach 80 percent of applicable available overall, regional, and/or sub-regional quota and are projected to reach 100 percent of the relevant quota by the end of the fishing season, after considering the following criteria and other relevant factors: Season length based on available sub-regional quota and average sub-regional catch rates; variability in regional and/or sub-regional seasonal distribution, abundance, and migratory patterns; effects on accomplishing the objectives of the 2006 Consolidated Atlantic HMS FMP and its amendments; amount of remaining shark quotas in the relevant sub-region; and regional and/or sub-regional catch rates of the relevant shark species or management groups. The fisheries for the shark species or management group would be closed (even across fishing years) from the effective date and time of the closure until NMFS announces, via the publication of a notice in the **Federal Register**, that additional quota is available and the season is reopened.

If NMFS determines that a linked shark species or management group must be closed, then, consistent with § 635.28(b)(3) for linked quotas and the Final Rule to Revise Atlantic Highly Migratory Species Shark Fishery Closure Regulations (83 FR 31677; July

9, 2018), NMFS will publish in the **Federal Register** a notice of closure for all of the species and/or management groups in a linked group that will be effective no fewer than four days from the date of filing. In that event, from the effective date and time of the closure until NMFS announces that the season is reopened and additional quota is available (via the publication of another notice in the **Federal Register**), the fisheries for all linked species and/or management groups will be closed, even across fishing years. The linked quotas of the species and/or management groups are Atlantic hammerhead sharks and Atlantic aggregated LCS; eastern Gulf of Mexico hammerhead sharks and eastern Gulf of Mexico aggregated LCS; western Gulf of Mexico hammerhead sharks and western Gulf of Mexico aggregated LCS; and Atlantic blacknose and Atlantic non-blacknose SCS south of 34° N latitude.

Request for Comments

Comments on this proposed rule may be submitted via www.regulations.gov. NMFS solicits comments on this proposed rule by October 29, 2020 (see **DATES** and **ADDRESSES**).

Classification

The NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated Atlantic HMS FMP and its amendments, the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

These proposed specifications are exempt from review under Executive Order 12866.

NMFS determined that the final rules to implement Amendment 2 to the 2006 Consolidated Atlantic HMS FMP (June 24, 2008, 73 FR 35778; corrected on July 15, 2008, 73 FR 40658), Amendment 5a to the 2006 Consolidated Atlantic HMS FMP (78 FR 40318; July 3, 2013), Amendment 6 to the 2006 Consolidated Atlantic HMS FMP (80 FR 50073; August 18, 2015), and Amendment 9 to the 2006 Consolidated Atlantic HMS FMP (80 FR 73128; November 24, 2015) are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of coastal states on the Atlantic, including the Gulf of Mexico and the Caribbean Sea, as required under the Coastal Zone Management Act. Pursuant to 15 CFR 930.41(a), NMFS provided the Coastal Zone Management Program of each coastal state a 60-day period to review the consistency determination and to advise NMFS of their concurrence. NMFS received concurrence with the

consistency determinations from several states and inferred consistency from those states that did not respond within the 60-day time period. This proposed action to establish an opening date and adjust quotas for the 2021 fishing year for the Atlantic commercial shark fisheries does not change the framework previously consulted upon. Therefore, no additional consultation is required.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA analysis follows.

Section 603(b)(1) of the RFA requires agencies to explain the purpose of the rule. This rule, consistent with the Magnuson-Stevens Act and the 2006 Consolidated Atlantic HMS FMP and its amendments, would adjust quotas and retention limits and establish the opening date for the 2021 Atlantic commercial shark fishing year, consistent with regulations at 50 CFR 635.27(b).

Section 603(b)(2) of the RFA requires agencies to explain the rule's objectives. The objectives of this rule are to: Adjust the base quotas for all shark management groups based on any overharvests and/or underharvests from the previous fishing year(s); establish the opening dates of the various shark fishery management groups; and establish the retention limits for the blacktip shark, aggregated large coastal shark, and hammerhead shark management groups in order to provide, to the extent practicable, equitable opportunities across the fishing management regions and/or sub-regions while also considering the ecological needs of the different shark species.

Section 603(b)(3) of the RFA requires agencies to provide an estimate of the number of small entities to which the rule would apply. The Small Business Administration (SBA) has established size criteria for all major industry sectors in the United States, including fish harvesters. SBA's regulations include provisions for an agency to develop its own industry-specific size standards after consultation with SBA and providing an opportunity for public comment (see 13 CFR 121.903(c)). Under this provision, NMFS may establish size standards that differ from those established by the SBA Office of Size Standards, but only for use by NMFS and only for the purpose of conducting an analysis of economic effects in fulfillment of the agency's obligations under the RFA. To utilize this provision, NMFS must publish such

size standards in the **Federal Register**, which NMFS did on December 29, 2015 (80 FR 81194; 50 CFR 200.2). In this final rule effective on July 1, 2016, NMFS established a small business size standard of \$11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411) for RFA compliance purposes. NMFS considers all HMS permit holders to be small entities because they had average annual receipts of less than \$11 million for commercial fishing.

As of July 10, 2020, the proposed rule would apply to the approximately 218 directed commercial shark permit holders, 263 incidental commercial shark permit holders, 159 smoothhound shark permit holders, and 104 commercial shark dealers. Not all permit holders are active in the fishery in any given year. Active directed commercial shark permit holders are defined as those with valid permits that landed one shark based on HMS electronic dealer reports. Of the 481 directed and incidental commercial shark permit holders, only 18 permit holders landed sharks in the Gulf of Mexico region, and only 85 landed sharks in the Atlantic region. Of the 159 smoothhound shark permit holders, only 61 permit holders landed smoothhound sharks in the Atlantic region, and none landed smoothhound sharks in the Gulf of Mexico region. NMFS has determined that the proposed rule would not likely affect any small governmental jurisdictions.

This proposed rule does not contain any new reporting, recordkeeping, or other compliance requirements (5 U.S.C. 603(b)(4)) or a collection-of-information requirement subject to the Paperwork Reduction Act. Similarly, this proposed rule would not conflict, duplicate, or overlap with other relevant Federal rules (5 U.S.C. 603(b)(5)). Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements as domestically implemented, domestic laws, and FMPs. These include, but are not limited to, the Magnuson-Stevens Act, the Atlantic Tunas Convention Act, the Marine Mammal Protection Act, the Endangered Species Act, the National Environmental Policy Act, and the Coastal Zone Management Act.

Section 603(c) of the RFA requires each IRFA to contain a description of any significant alternatives to the proposed rule, which would accomplish the stated objectives of applicable statutes and minimize any significant economic impact of the proposed rule on small entities. Additionally, the RFA (5 U.S.C. 603(c)(1)–(4)) lists four general categories of significant alternatives that

would assist an agency in the development of significant alternatives. These categories of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and (4) exemptions from coverage of the rule for small entities. In order to meet the objectives of this proposed rule, consistent with the Magnuson-Stevens Act, NMFS cannot exempt small entities or change the reporting requirements only for small entities, because all of the entities affected are considered small entities. For similar reasons, there are no alternatives discussed that fall under the first, second, and fourth categories described above. NMFS does not know of any performance or design standards that would satisfy the aforementioned objectives of this rulemaking while, concurrently, complying with the Magnuson-Stevens Act; therefore, there are no alternatives considered under the third category.

This rulemaking would implement previously adopted and analyzed measures with adjustments, as specified in the 2006 Consolidated Atlantic HMS FMP and its amendments and the Environmental Assessment (EA) that accompanied the 2011 shark quota specifications rule (75 FR 76302; December 8, 2010). NMFS proposes to adjust quotas established and analyzed in the 2006 Consolidated Atlantic HMS FMP and its amendments by subtracting the underharvest or adding the overharvest as allowable. NMFS has limited flexibility to otherwise modify the quotas in this rule. In addition, the impacts of the quotas (and any potential modifications) were analyzed in previous regulatory flexibility analyses (RFAs), including the RFA that accompanied the 2011 shark quota specifications rule.

Based on the 2019 ex-vessel price (Table 3), fully harvesting the unadjusted 2021 Atlantic shark commercial base quotas could result in total fleet revenues of \$9,997,263. For the Gulf of Mexico blacktip shark management group, NMFS is proposing to adjust the base sub-regional quotas upward due to underharvests in 2020. The increase for the western Gulf of Mexico blacktip shark management group could result in a \$241,691 gain in total revenues for fishermen in that sub-region, while the increase for the eastern Gulf of Mexico blacktip shark

management group could result in a \$27,645 gain in total revenues for fishermen in that sub-region. For the Gulf of Mexico and Atlantic smoothhound shark management groups, NMFS is proposing to increase the base quotas due to the underharvest in 2020. This would cause a potential gain in revenue of \$393,063 for the fleet in the Gulf of Mexico region, and a

potential gain in revenue of \$1,112,680 for the fleet in the Atlantic region.

All of these changes in gross revenues are similar to the gross revenues analyzed in the 2006 Consolidated Atlantic HMS FMP and Amendments 2, 3 5a, 6, and 9 to the 2006 Consolidated Atlantic HMS FMP. The final RFAs for those amendments concluded that the economic impacts on these small entities from adjustments such as those contemplated in this action are expected

to be minimal. In accordance with the 2006 Consolidated Atlantic HMS FMP, as amended, and consistent with NMFS' statements in rule implementing Amendments 2, 3 5a, 6, and 9, and in the EA for the 2011 shark quota specifications rule, NMFS now conducts annual rulemakings in which NMFS considers the potential economic impacts of adjusting the quotas for underharvests and overharvests.

TABLE 3—AVERAGE EX-VESSEL PRICES PER LB DW FOR EACH SHARK MANAGEMENT GROUP, 2019

Region	Species	Average ex-vessel meat price	Average ex-vessel fin price
Western Gulf of Mexico	Blacktip Shark	\$0.70	\$9.16
	Aggregated LCS	0.73	15.81
	Hammerhead Shark	0.52	12.00
Eastern Gulf of Mexico	Blacktip Shark	0.75	8.00
	Aggregated LCS	0.56	12.00
	Hammerhead Shark	0.50	13.43
Gulf of Mexico	Non-Blacknose SCS	0.59	5.81
	Smoothhound Shark	1.06	.....
	Aggregated LCS	0.99	3.51
Atlantic	Hammerhead Shark	0.46	.....
	Non-Blacknose SCS	1.02	4.60
	Blacknose Shark	1.27	.....
No Region	Smoothhound Shark	0.78	1.68
	Shark Research Fishery (Aggregated LCS)	0.86	15.15
	Shark Research Fishery (Sandbar only)	0.68	.....
	Blue shark	.....	.....
	Porbeagle shark	0.36	2.51
	Other Pelagic sharks	1.35	7.60

For this rule, NMFS also reviewed the criteria at § 635.27(b)(3) to determine when opening each fishery would provide equitable opportunities for fishermen, to the extent practicable, while also considering the ecological needs of the different species. The opening date of the fishing year could vary depending upon the available annual quota, catch rates, and number of fishing participants during the year. For the 2021 fishing year, NMFS is

proposing to open all of the shark management groups on the effective date of the final rule for this action (which is expected to be January 1). The direct and indirect economic impacts would be neutral on a short- and long-term basis, because NMFS is not proposing to change the opening date of these fisheries from the status quo.

For all of the reasons explained above, this action, if implemented, will not

have a significant economic impact on a substantial number of small entities.

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

Dated: September 14, 2020.

Samuel D. Rauch, III,
Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.

[FR Doc. 2020-20573 Filed 9-28-20; 8:45 am]

BILLING CODE 3510-22-P