

as defined in the clause entitled "Trade Agreement Act" in this solicitation; or

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Dated: April 20, 1995.

Ida M. Ustad,

Associate Administrator for Acquisition Policy.

[FR Doc. 95-10547 Filed 5-1-95; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 678

[Docket No. 950414106-5106-01; I.D. 121494A]

RIN 0648-AF63

Atlantic Shark Fisheries; Semiannual Quotas for Large Coastal and Pelagic Sharks

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to establish semiannual commercial quotas for Atlantic large coastal sharks and Atlantic pelagic sharks under the framework provisions of the Fishery Management Plan for Sharks of the Atlantic Ocean (FMP), at 1994 levels. These quotas apply to permitted vessels for 1995 and, unless adjusted, for future years. This final rule is intended to reduce the probability of overfishing, by maintaining the current semiannual quotas for the pelagic shark species group and rejecting the planned 1995 increases in the semiannual commercial quotas increase for the large coastal species group.

EFFECTIVE DATE: May 1, 1995.

ADDRESSES: Requests for copies of the environmental assessment and regulatory impact review (EA/RIR) should be sent to Richard B. Stone, Chief, Highly Migratory Species Management Division, Office of Fisheries Conservation and Management (F/CM), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

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

SUPPLEMENTARY INFORMATION: The fishery for Atlantic sharks is managed under the FMP prepared by NMFS

under authority of section 304(f)(3) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), and implemented in April 1993 through regulations found at 50 CFR part 678.

For the reasons explained below, NMFS is implementing the following semiannual quotas: Large coastal species = 1,285 metric tons dressed weight (mtdw); Pelagic species = 290 mtdw. The notice of proposed rulemaking was published on January 6, 1995 (60 FR 2071), with a request for comments. The notice of proposed rulemaking contained background information which is not repeated here.

Comments and Responses

Commercial Quotas

Comments: Written comments on the proposed commercial quotas were provided by one Fishery Management Council, three conservation organizations, one directed commercial shark fishing organization (petition with 49 entries), one incidental commercial shark fishing organization, one seafood production company, and 64 individuals whose comments addressed the proposed commercial quotas. Commenters suggested four possible options: (1) Commercial quotas should be allowed to increase as scheduled in the FMP, (2) commercial quotas should be maintained at the current level until additional data on the status of the stocks can be evaluated, (3) commercial quotas should be significantly reduced, and (4) the commercial shark fishery should be closed until there are clear signs of stock recovery.

Response: NMFS has examined the four possible commercial quota options and has determined that the total allowable catch (TAC) for 1995 should remain at the 1994 level, as recommended by the 1994 Shark Evaluation Workshop (SEW) and members of the Shark Operations Team (OT). A new stock assessment and fishery evaluation (SAFE) report is currently in preparation and will be published in 1995. If appropriate, the Assistant Administrator for Fisheries, NOAA (AA) may reexamine the quota levels and make determinations on adjustments to future quotas.

Large Coastal and Pelagic Shark Quotas

The framework provisions of the FMP allow the AA to make adjustments in the management measures in order to achieve the objectives of the FMP. NMFS has determined that the 1994 semiannual quotas of 1,285 mt, which represented for the year only a 5 percent increase over 1993, should be set as the semiannual commercial quotas for the

large coastal group for 1995. This, in the opinion of NMFS, represents a reasonable compromise between alternatives, pending future scientific analyses that may suggest the need for different quotas.

The alternative of increasing the commercial quotas as planned in the FMP was rejected primarily on the basis of recommendations from the SEW and members of the OT. The SEW concluded that "the weight of evidence does not support the previous (FMP) recommendation that the 1994 or 1995 TAC should automatically increase." The OT met in July 1994, and generally agreed with this conclusion. Thus, the rebuilding plan outlined in the FMP has been determined to be inadequate to achieve the goal of rebuilding the large coastal sharks resource to a level consistent with the maximum sustainable yield (MSY). As a result, NMFS has rejected planned quota increases for 1995. Whether the selected semiannual quotas of 1,285 mt (equivalent to the 1994 semiannual quotas) will lead to rebuilding in 1995 and beyond is currently uncertain. The likelihood of stock rebuilding for this and other quota levels will be addressed in future stock assessments.

In terms of the semiannual quota increase that has already gone into effect, NMFS believes that the 5 percent reduction in quotas necessary to return to the 1993 level could have a large negative impact on the large coastal shark fishing industry, while it is unlikely to change substantially the future dynamics of the large coastal shark resource. Until recently, the fishing industry had anticipated that the scheduled increases in the FMP would take place, and had planned operations accordingly. Subsequently, the industry has had to replan and scale down projected production schedules. Further scaling down could result in greater negative consequences which, in the opinion of NMFS, may not be warranted.

In terms of benefits to the large coastal shark resource, NMFS believes that action to forestall the planned 30.3 percent increase of the 1995 semiannual quotas for the year over the 1993 quotas has far greater significance for the future viability of the various shark stocks. NMFS believes that it is not worth putting the industry at a disadvantage for the sake of a quota reduction of the order of 5 percent, which may have been within the margin of error of quota monitoring capabilities in the past.

Comments received from the Delaware Division of Fish and Wildlife through the Delaware Coastal Management Program recommended

that the quota for 1995 be further reduced. Three conservation organizations and numerous individuals also requested that the quota be reduced. Large reductions in the established quota would likely cause substantial financial hardship for vessels already commercially fishing for large coastal sharks. A complete closure of the established directed shark fishery for large coastal sharks would result in severe financial hardships for vessels already participating in the fishery, and could result in the displacement of vessels and crews from the large coastal shark fishery into other fisheries, including pelagic and small coastal sharks.

The Delaware Coastal Management Program has requested additional information concerning the basis for maintaining the quota at status quo, expressing a preference that the quota be further reduced. The AA has agreed to continue discussion on quota levels with Delaware officials, and Delaware officials have agreed that the proposed quota should be established by a final rule prior to a final resolution of this issue, because otherwise the fishery would be unrestricted.

While the 1994 SEW focused on the large coastal shark species group, declining catch per unit of effort and life history characteristics indicating low productivity for pelagics and small coastals also suggest that a prudent approach is warranted for these groups.

No new analyses were presented upon which to modify MSY or TAC of the pelagic and small coastal sharks. Accordingly, NMFS sets the semiannual commercial quotas for large coastal and pelagic sharks for 1995 at the 1994 levels. At present, no quota has been established for the small coastal species group. When analyses are presented, the AA may propose an appropriate quota for small coastal sharks.

NMFS also removes the specification of the year from those parts of the regulatory text referring to quotas. Thus, if a change in quota level from a previous year is not published, a change in the regulatory text will not be necessary to continue the previous level for the new year.

Classification

The AA has determined that this rule is necessary for conservation and management of shark resources in the Atlantic Ocean and is consistent with the national standards and other provisions of the Magnuson Act, and other applicable law. This final rule has been determined to be not significant for purposes of E.O. 12866. The quotas for 1995 are within the range analyzed in the Regulatory Flexibility Analysis (RFA) included in the EA/RIR prepared for the FMP and no new RFA has been prepared.

List of Subjects in 50 CFR Part 678

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 26, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

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

PART 678—ATLANTIC SHARKS

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

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

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

§ 678.24 Commercial quotas.

* * * * *

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

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

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

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

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

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

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

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