(k)(7)(iv) of this section, during the previous year (April 1 to March 31) did not include the lethal take of any released wolf or wolves that were or would have counted toward the genetic objective set forth at paragraph (k)(9)(v) of this section.

(*2*) After the USFWS has achieved the genetic objective set forth at paragraph (k)(9)(v) of this section, the conditional annual basis for issuing permits will no longer be in effect.

* * * * *

(vi) * * *

(E) No requests for take in response to unacceptable impacts to a wild ungulate herd may be made by the State game and fish agency or accepted by the USFWS until the genetic objective at paragraph (k)(9)(v) of this section has been met.

* * * * *

(9) * * *

(iii) Based on end-of-year counts, we will manage to achieve and sustain a population average greater than or equal to 320 wolves in Arizona and New Mexico. This average must be achieved over an 8-year period, the population must exceed 320 Mexican wolves each of the last 3 years of the 8-year period, and the annual population growth rate averaged over the 8-year period must demonstrate a stable or increasing population, as calculated by a geometric mean.

* * * * *

(v) The USFWS and designated agencies will conduct a sufficient number of releases into the MWEPA from captivity to result in at least 22 released Mexican wolves surviving to breeding age.

(10) *Evaluation.* The USFWS will continue to evaluate Mexican wolf reestablishment progress and prepare periodic progress reports and detailed annual reports. In addition, approximately 5 years after August 1, 2022, the USFWS will prepare a one-time overall evaluation of the experimental population program that focuses on modifications needed to improve the efficacy of this rule and the progress the experimental population is making to the recovery of the Mexican wolf.

* * * * *

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2022–14025 Filed 6–30–22; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 220627–0143]

RIN 0648–BL17

Atlantic Highly Migratory Species; Shortfin Mako Shark Retention Limit

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

ACTION: Final rule.

SUMMARY: In this final rule, NMFS is implementing a flexible shortfin mako shark retention limit with a default limit of zero in commercial and recreational Atlantic highly migratory species (HMS) fisheries. The default limit of zero will remain in place unless and until changed. Under this final rule, future changes to the retention limit can only be made based on consideration of regulatory criteria and only if consistent with an allowable retention determination made by the International Commission for the Conservation of Atlantic Tunas (ICCAT) pursuant to Recommendation 21–09. This action is necessary to implement the binding recommendations of ICCAT adopted in 2021, as authorized under the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: This final rule is effective July 5, 2022.

ADDRESSES: Electronic copies of this final rule and supporting documents are available from the Atlantic HMS Management Division website at *https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species* or by contacting Carrie Soltanoff at *carrie.soltanoff@noaa.gov* or 301–427–8503.

FOR FURTHER INFORMATION CONTACT: Carrie Soltanoff (*carrie.soltanoff@noaa.gov*), Guy DuBeck (*guy.dubeck@noaa.gov*), Erianna Hammond (*erianna.hammond@noaa.gov*), or Ann Williamson (*ann.williamson@noaa.gov*) at 301–427–8503.

SUPPLEMENTARY INFORMATION: Atlantic shark fisheries are managed primarily under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) and ATCA (16 U.S.C. 971 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (2006 Consolidated HMS FMP) and its amendments are implemented by regulations at 50 CFR part 635. ATCA authorizes the Secretary of Commerce to promulgate such regulations as necessary and appropriate to carry out ICCAT recommendations. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary of Commerce to the NMFS Assistant Administrator.

Background information about the need to implement a retention limit for shortfin mako sharks was provided in the preamble to the proposed rule (87 FR 21077, April 11, 2022) and is not repeated here. The comment period for the proposed rule closed on May 11, 2022. NMFS received 22 written comments as well as oral comments during the public hearing held by webinar on April 27, 2022. The comments received, and the responses to those comments, are summarized in the Response to Comments section. After considering public comments on the proposed rule, NMFS is finalizing the rule as proposed. As described, no changes are made from the proposed rule.

NMFS has prepared an Environmental Assessment (EA), Regulatory Impact Review (RIR), and Final Regulatory Flexibility Analysis (FRFA), which analyze the anticipated environmental, social, and economic impacts of several alternatives for each of the major issues contained in this final rule. The full list of alternatives and their analyses are provided in the final EA/RIR/FRFA and are not repeated here. A summary of the FRFA is provided below. A copy of the final EA/RIR/FRFA prepared for this final rule is available from NMFS (see **ADDRESSES**).

As described in the proposed rule, Recommendation 21–09, adopted at the November 2021 ICCAT annual meeting, prohibits retention of North Atlantic shortfin mako sharks caught in association with ICCAT fisheries in 2022 and 2023. Limited retention of shortfin mako sharks may be allowed in 2023 and future years if ICCAT determines that fishing mortality is at a low enough level North Atlantic-wide to allow retention consistent with the conservation objectives of the recommendation.

In order to meet domestic management objectives, implement Recommendation 21–09, and acknowledge the possibility of future retention, this final rule implements a flexible shortfin mako shark retention limit with a default limit of zero in commercial and recreational HMS fisheries. The retention limit applies to commercial vessels issued a Shark

Directed or Shark Incidental LAP using pelagic longline, bottom longline, or gillnet gear, and to recreational HMS permit holders (those who hold HMS Angling or Charter/Headboat permits). It also applies to Atlantic Tunas General category and Swordfish General Commercial permits when participating in a registered HMS tournament. Retention already is not allowed for other permits and gear types (see §§ 635.21(a)(4) and 635.24(a)(4)(i) and (iii)). Thus, retention in all commercial and recreational fisheries is prohibited for 2022 consistent with the ICCAT recommendation, and all commercial and recreational fishermen are required to release all shortfin mako sharks, whether dead or alive, at haulback.

The shortfin mako shark retention limit per trip of zero will remain in place unless changed after consideration of the inseason trip limit adjustment criteria (§ 635.24(a)(8)) and consistent with any ICCAT retention allowances pursuant to Recommendation 21–09. If the retention limit is increased, it would apply only to commercial vessels issued a Shark Directed or Shark Incidental LAP using pelagic longline, bottom longline, or gillnet gear, and/or to recreational HMS permit holders (those who hold HMS Angling or Charter/Headboat permits) and Atlantic Tunas General category and Swordfish General Commercial permits when participating in a registered HMS tournament). It would not apply to other fisheries and gear types where retention is otherwise prohibited. If a retention limit greater than zero is implemented for the commercial fishery, the commercial shortfin mako shark fishing restrictions in effect prior to this final rule would once again also apply. Similarly, if a retention limit greater than zero is implemented for the recreational fishery, the recreational shortfin mako shark fishing restrictions in effect prior to this final rule would again also apply.

Additionally, under this final rule, research and sampling of shortfin mako sharks continues to be allowable under exempted fishing permits (EFPs) and scientific research permits (SRPs) (see §§ 635.27(b)(4) and 635.32). Collection of shortfin mako sharks under display permits is not allowed. Applications for EFPs and/or SRPs will be considered on a case-by-case basis. Collection of shortfin mako sharks under EFPs and/or SRPs could include sampling or limited retention where needed for scientific research. Only non-lethal sampling would be permitted on shortfin mako sharks that are alive at haulback. NMFS intends to limit any such EFPs and/or SRPs to closely monitored studies and to limit the number of such permits and the number of sharks that may be sampled and/or retained. When retention is otherwise prohibited, any retention pursuant to an EFP and/or SRP will be accounted for under the applicable shark research and display quota. If retention is otherwise permitted, consistent with ICCAT recommendations, NMFS will count any retention under EFPs and/or SRPs against the applicable ICCAT retention allowance.

NMFS is also making a minor modification to the pelagic longline gear restrictions at § 635.21(c)(1)(iv) to further clarify the shortfin mako shark live release requirements.

Response to Comments

Written comments can be found at *www.regulations.gov* by searching for ''NOAA–NMFS–2022–0015.'' Below, NMFS summarizes and responds to the comments made on the proposed rule during the comment period.

Comment 1: NMFS received several comments in support of the proposed measures (preferred Alternative 2 in the EA for this action). Commenters stated that they supported these measures due to the ICCAT stock assessment showing that the North Atlantic shortfin mako shark stock is overfished and subject to overfishing; the role of shortfin mako sharks as apex predators in the marine ecosystem; the life history traits of this species including slow growth and late reproductive maturity; the high risk of this species to overfishing; and listing of this species as endangered on the International Union for Conservation of Nature (IUCN) Red List of Threatened Species. Some commenters supported the zero retention limit in order to allow sustainable commercial and recreational fishing for shortfin mako sharks in the future.

Response: NMFS agrees that these measures, along with other conservation and management measures that are in place, are appropriate given the stock assessment conclusion that the North Atlantic shortfin mako shark stock is overfished and subject to overfishing. These measures are based on the best scientific information available, which recognizes the species' life history traits, including late reproductive maturity. NMFS shares the commenters' view that putting a retention limit of zero in place now should contribute to allowing the population to support future sustainable fisheries.

Regarding the IUCN Red List status of shortfin mako sharks, NMFS scientists participate in the species assessment for the Red List, but NMFS does not base management actions on IUCN designations. The IUCN uses different criteria than applicable under the Endangered Species Act (ESA) for determining whether a species is threatened or endangered or for determining whether stocks are overfished or overfishing is occurring under the Magnuson-Stevens Act.

Comment 2: Several comments supported a retention limit of zero for shortfin mako sharks but stated that the retention limit should be extended domestically beyond 2023, even if some level of retention is allowed beginning in 2023 under Recommendation 21–09, and stay in place until the population is rebuilt, as determined by a stock assessment. Some commenters urged NMFS to take a precautionary approach to shortfin mako shark management. Some commenters stated that allowing retention before the population is rebuilt would be inconsistent with the best scientific information available, as required under National Standard 2 of the Magnuson-Stevens Act.

Response: NMFS disagrees that the HMS regulations should specify that the retention limit of zero for shortfin mako sharks should remain in place until the population is determined to be rebuilt. The purpose of this action is to implement ICCAT Recommendation 21–09, which includes the possibility of limited future retention of shortfin mako sharks as determined by ICCAT consistent with this recommendation. Recommendation 21–09 specifies that retention may only occur when the overall level of fishing mortality prevents overfishing with a high probability (*i.e.,* under 250 mt for all ICCAT parties combined). Recommendation 21–09 also provides that a rebuilding program for North Atlantic shortfin mako shark is being undertaken starting in 2022 to end overfishing immediately and gradually achieve biomass levels sufficient to support maximum sustainable yield (MSY) by 2070 with a probability of a range of between 60 and 70 percent at least. The initial aim of the recommendation is to reduce total fishing mortality, to maintain mortality at sustainable levels to rebuild the stock, and to establish a process to determine whether in any given year there is a possibility for retention. ICCAT determinations regarding longer-term retention or measures that are appropriately part of a rebuilding plan have not yet been made. As described in Chapter 4.1 of the EA, possible future increase of the shortfin mako shark retention limit above zero, consistent with the limits specified in Recommendation 21–09 and the domestic inseason adjustment criteria, would not be expected to have an

adverse impact on the stock. Additionally, the U.S. portion of total ICCAT shortfin mako shark catch has historically been low (approximately 14 percent, on average, at the time of the 2017 stock assessment). Under a retention limit greater than zero, U.S. retention would continue to be limited by the commercial and recreational restrictions under the current regulations. Further, Recommendation 21–09 limits possible future retention of shortfin mako sharks to those that are dead at haulback.

Regarding National Standard 2 of the Magnuson-Stevens Act, as described in Chapter 8 of the EA, National Standard 2 requires that conservation and management measures be based on the best scientific information available. NMFS determined that the preferred Alternative 2, implemented in this action, is consistent with National Standard 2. These measures are based on the latest ICCAT Standing Committee on Research and Statistics (SCRS) stock assessment for shortfin mako sharks, and specific SCRS advice regarding recommended management approaches (*i.e.,* no retention) pending reduction of catch below 250 mt. Any shortfin mako shark retention allowed by ICCAT would take into consideration the best scientific information available regarding landings and dead discards across all ICCAT parties. Results from the stock assessment and the other data sources represent the best available science.

Comment 3: One commenter stated that the current commercial fishery restrictions would apply if the flexible shortfin mako shark retention limit were increased above zero, and that the current restrictions are inadequate to rebuild the population.

Response: Regarding the commercial fishery regulations in effect prior to this final rule, in the FEIS for Amendment 11 to the 2006 Consolidated HMS FMP (Amendment 11), NMFS concluded that the commercial measures would have short- and long-term minor beneficial ecological impacts to the North Atlantic shortfin mako shark stock. The Amendment 11 measures were implemented to reduce U.S. shortfin mako shark catch to levels consistent with ending overfishing and beginning to rebuild the stock. U.S. shortfin mako shark catch is a small percentage of total North Atlantic-wide catch and so domestic reductions in shortfin mako shark mortality alone cannot end overfishing of, or rebuild, the entire North Atlantic stock.

Comment 4: NMFS received several comments in support of a non-preferred alternative (Alternative 3) to prohibit retention of shortfin mako sharks through placing the species on the Atlantic HMS prohibited sharks list. Commenters stated that this alternative would be in line with the SCRS advice and Recommendation 21–09. Commenters also stated that NMFS' analyses show that this measure would not have substantial economic impacts on commercial or for-hire fisheries or HMS tournaments. One commenter stated that shortfin mako sharks also meet one of the criteria for putting sharks on the prohibited species list, § 635.34(c)(4), because the species is difficult to distinguish from other prohibited species, since it is easily confused with longfin mako sharks.

Response: NMFS is not implementing Alternative 3 (prohibit retention of shortfin mako sharks) at this time because that measure would be beyond the scope of this action to implement ICCAT Recommendation 21–09. Under § 635.34(c), NMFS considers four criteria when placing a species on the Atlantic HMS prohibited species list. These criteria are: (1) Biological information indicating that the stock warrants protection; (2) Information indicating that the species is rarely encountered or observed caught in HMS fisheries; (3) Information indicating that the species is not commonly encountered or observed caught as bycatch in fishing operations for species other than HMS; and (4) Whether the species is difficult to distinguish from other prohibited species.

Although shortfin mako sharks meet criteria 1 and 3 of the four prohibited species criteria, NMFS is not adding shortfin mako sharks to the prohibited species list for several reasons. First, if ICCAT should make changes to the retention allowance in the future under Recommendation 21–09, the preferred alternative gives NMFS flexibility to make changes to the retention limit quickly to allow U.S. fishermen the opportunity to potentially land shortfin mako sharks, or to again prohibit retention quickly by setting the limit at zero when needed. Additionally, the shortfin mako shark mortality associated with current U.S. landings is minimal when compared to the total North Atlantic shortfin mako shark mortality. Therefore, NMFS is not implementing this alternative at this time.

Regarding criterion four, shortfin mako sharks are not easily confused with other shark species. The species that look the most like shortfin mako sharks are porbeagle and white sharks. However, there are several clear differences in their dorsal fin coloration, second dorsal fin position, and teeth. Porbeagle sharks have a unique white patch on the trailing edge of the first dorsal fin, which makes the mark a great identification characteristic that can easily be seen while the shark is alive and in the water. The position of the second dorsal fin is in line with the anal fin in porbeagle and shortfin mako sharks, while the second dorsal fin is positioned between the pelvic and anal fin in white sharks. If the shark is brought to the vessel dead, fishermen could also examine the teeth before deciding whether the species can be retained. Specifically, porbeagle sharks have smooth, bladelike teeth with cusplets, while shortfin mako sharks have smooth, bladelike teeth without cusplets, and white sharks have large, triangular, serrated teeth. One of the commenters suggested that shortfin mako sharks could be mistaken for longfin mako sharks. NMFS has not found that to be true. Longfin mako sharks have been on the prohibited species list since 2000. During that time, few fishermen have mistaken the species for shortfin mako sharks. Compared to shortfin mako sharks, longfin mako sharks have much longer pectoral fins, have a different body shape, and are dark on the underside of the snout.

Comment 5: One comment supported the proposed flexible retention limit for shortfin mako sharks as a short-term solution with the goal of ultimately adding the shortfin mako shark to the prohibited sharks list in the long-term.

Response: For the reasons described in the responses to Comments 1 and 4 and Chapter 4 of the EA, NMFS is implementing the measures under preferred Alternative 2 to implement a flexible shortfin mako shark retention limit with a default limit of zero, and is not adding the species to the HMS prohibited sharks list under Alternative 3. This does not preclude NMFS from adding shortfin mako sharks to the prohibited sharks list in the future if new information or international or domestic action necessitate that measure, for example, under a future ICCAT recommendation or following domestic determinations under the ESA.

Comment 6: NMFS received several comments supporting a ban on shortfin mako shark retention, rather than a flexible retention limit with a default limit of zero. Commenters supported banning retention due to the ICCAT stock assessment showing that the North Atlantic shortfin mako shark stock is overfished and subject to overfishing; the scientific advice and projections from the SCRS, including that the population will continue to decline for several years before it begins to recover, even with no retention; the need to

incentivize avoidance of this species by fishing vessels; the high susceptibility of the species as identified in the SCRS Ecological Risk Assessment for sharks; the role of shortfin mako sharks as apex predators in the marine ecosystem; the life history traits of this species including slow growth and late reproductive maturity; listing of this species as endangered on the IUCN Red List; the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) status of this species; and the need to save this species from extinction. Some commenters specifically opposed flexibility in the retention limit. One commenter supported maintaining a full retention ban until at least 2035 or whenever a new stock assessment demonstrates rebuilding will be successful.

Response: NMFS disagrees that the Agency should implement a retention ban for shortfin mako sharks, which NMFS understands to mean implementing a retention limit of zero with no flexibility to increase the retention limit in the future. NMFS believes that implementation of the preferred alternative, including a flexible retention limit, best meets the purpose and need for this action: to implement ICCAT Recommendation 21–09. If retention is later allowed by ICCAT pursuant to the provisions in the recommendation, section 304(g)(1)(D) of the Magnuson-Stevens Act requires the Agency to provide fishing vessels with a reasonable opportunity to harvest U.S. allocation or quota under an international fishery agreement. Under these measures, NMFS could change the shortfin mako shark retention limit based on the inseason trip limit adjustment criteria where consistent with any future retention allowance that is determined by ICCAT consistent with Recommendation 21–09. ICCAT adopted Recommendation 21–09 in order to address the stock status of North Atlantic shortfin mako sharks (overfished and experiencing overfishing) and recognizing the results of the SCRS ecological risk assessment for sharks and the SCRS advice that, regardless of allowable catch levels, the shortfin mako shark spawning stock biomass will continue to decline until 2035 before any increase can occur, owing to the time it takes juveniles to reach maturity. As described in Chapter 4 of the EA, these measures may have the effect of disincentivizing shortfin mako shark catch, although only to the extent commercial fishermen could further explore and find ways to avoid shortfin mako sharks through gear modification or changing fishing locations.

Regarding CITES status, the CITES status of shortfin mako sharks has been addressed in the United States through appropriate permitting requirements, and is outside the scope of this rulemaking. CITES classifies species based on the level of trade monitoring needed to ensure the population recovers or remains healthy. Through CITES, the United States has agreed to increase protections and international trade monitoring for a number of shark species, including shortfin mako sharks. Shortfin mako sharks are included in CITES Appendix II, under which commercial international trade is allowed, and in the United States permit requirements specific to CITES are managed primarily by the U.S. Fish and Wildlife Service. IUCN Red List status of shortfin mako sharks is discussed in the response to Comment 1.

Comment 7: NMFS received a comment that retention of shortfin mako sharks for scientific research should be banned as well, because that activity risks fatal injuries to the sharks.

Response: Determinations regarding individual EFPs or SRPs for shortfin mako research would be made on a case-by-case basis; NMFS is not authorizing any particular research, retention, or sampling with this final rule. NMFS disagrees that scientific research sampling of shortfin mako sharks should be banned under HMS EFPs and SRPs. As described in Chapter 2 of the EA, considering the fact that the shortfin mako shark retention limit will otherwise be set at zero, NMFS intends to limit any EFPs and SRPs to closely monitored studies, and to limit the number of such permits and the number of sharks that may be retained, if any. Research on shortfin mako sharks is critical to gathering scientific information about the stock and to helping ensure that stock assessments have sufficient data. Permitted collection of shortfin mako sharks for scientific research is consistent with the biological sampling and research needs described in Recommendation 21–09 and other relevant ICCAT recommendations, as well as research needs identified by the SCRS, including to provide data for future shortfin mako shark stock assessments. For example, Recommendations 21–09 and 13–10 (*Recommendation on Biological Sampling of Prohibited Shark Species by Scientific Observers*) provide for collection of biological samples of shortfin mako and other sharks that are dead at haulback during commercial fishing operations by scientific observers or individuals duly permitted by the ICCAT party.

Comment 8: Some comments supported including all relevant commercial and recreational fisheries in the scope of this rulemaking, including fisheries, such as bottom longline and gillnet shark fisheries, which are not considered ICCAT fisheries.

Response: NMFS agrees with the commenters on including gears that are not associated with ICCAT fisheries, such as bottom longline and gillnet shark fisheries, in this action. This approach is consistent with the approach taken in Amendment 11, where NMFS determined it was appropriate to implement parallel management measures in the non-ICCAT shark fisheries given that the stock remained overfished with overfishing occurring. This approach ensures consistency in HMS regulations across gear types, which will provide clarity for both the regulated community and for enforcement purposes and thus ensure more effective implementation. The purpose of this action is to implement ICCAT Recommendation 21–09, which prohibits the retention of North Atlantic shortfin mako sharks caught in association with ICCAT fisheries in 2022 and 2023, among other measures. In this action, after considering the measures implemented under Amendment 11 that considered the requirements of the Magnuson-Stevens Act, the status of shortfin mako sharks, and the need for consistency, NMFS is applying a flexible retention limit with a default of zero to non-ICCAT fishery gear types (bottom longline and gillnet).

Comment 9: NMFS received a comment that the alternative to prohibit retention of shortfin mako sharks is the most consistent with National Environmental Policy Act (NEPA) requirements, since public comment would be taken on any future action to allow retention. The commenter stated that the flexible retention limit under the preferred alternative, on the other hand, would not require public comment to increase the retention limit, which would be inconsistent with NEPA requirements. The commenter further stated that the preferred alternative did not analyze an upper retention limit and therefore the analyses in the EA are inadequate.

Response: NMFS disagrees that increasing the shortfin mako shark retention limit in the future would be inconsistent with NEPA requirements. Inseason trip limit adjustment criteria are described in the current HMS regulations (see § 635.24(a)(8)), as augmented in this action, and those

regulatory criteria would be used for any future adjustment of the shortfin mako shark retention limit, as they are currently for adjustment of other shark retention limits (for example, § 635.24(a)(2)). In addition, any future change to the shortfin mako shark retention limit would be implemented only to the extent future retention is allowable as determined by ICCAT consistent with Recommendation 21–09. Although an upper per trip retention limit for shortfin mako sharks is not analyzed in this action, the EA effectively analyzes the possible effects of any retention limit increases that fall within (and would effectuate) a future U.S. retention allowance under the current Recommendation. A future U.S. retention allowance would occur within the Recommendation's overall limit on total fishing mortality and the United States' portion of that allowance and would not have additional impacts outside those analyzed. Furthermore, any retention allowance for the United States would likely be small since it must be under 250 mt for all ICCAT parties combined, and the U.S. portion of total ICCAT shortfin mako shark catch has historically been low. When NMFS establishes a per-trip retention limit, it will constrain U.S. catch within that U.S. retention allowance. Additionally, under a retention limit greater than zero, U.S. shortfin mako shark retention would continue to be limited by the commercial and recreational restrictions in the current regulations, along with additional restrictions on retention of sharks that are alive at haulback. Recommendation 21–09 only allows for possible future retention of shortfin mako sharks that are dead at haulback, which further restricts possibilities for U.S. retention under a possible future retention allowance. These measures for shortfin mako sharks are analyzed in the EA for this action under preferred Alternative 2, considering public comments received on the proposed rule and draft EA and IRFA, consistent with NEPA requirements.

Comment 10: NMFS received comments, including from the State of Georgia, opposing implementation of a default retention limit of zero for shortfin mako sharks in directed shark fisheries or in recreational fisheries. Commenters stated that the United States has already effectively reduced shortfin mako shark catch in proportion to the U.S. contribution to stock-wide catches. The State of Georgia also commented that the Agency should not implement measures beyond those under Amendment 11 in directed shark fisheries, and that the HMS regulations implementing ICCAT recommendations on oceanic whitetip sharks and hammerhead sharks were not implemented in non-ICCAT, directed shark fisheries for consistency.

Response: NMFS agrees that the measures implemented under Amendment 11 were effective at meeting the management objectives of that action, and reduced catch levels of shortfin mako sharks in U.S. fisheries to a level consistent with ending overfishing of the stock. However, as described under the No Action Alternative (Alternative 1) in Chapter 4 of the EA, the current measures are not sufficient to meet the purpose and need for the present action. The purpose of this action is to implement ICCAT Recommendation 21–09, which prohibits the retention of North Atlantic shortfin mako sharks. The action is needed because the current HMS regulations, which allow limited retention of shortfin mako sharks in commercial and recreational fisheries, are inconsistent with the requirements of Recommendation 21–09.

NMFS disagrees that shortfin mako shark retention limit should not apply in directed shark fisheries. As described in Chapter 2 of the EA, the flexible retention limit would apply in the HMS bottom longline and gillnet fisheries for sharks, although those fisheries are not considered to be ICCAT fisheries, which are defined as fisheries for tuna or tuna-like species under the current ICCAT Convention. This approach is consistent with the approach taken in Amendment 11, where NMFS determined it was appropriate to implement parallel management measures in the non-ICCAT shark fisheries given that the stock remained overfished with overfishing occurring. This approach would ensure consistency in HMS regulations, which would provide clarity for both the regulated community and for enforcement purposes and thus ensure more effective implementation. NMFS did not, however, implement the ICCAT requirement that electronic monitoring be onboard in these fisheries, because bottom longline and gillnet fisheries have minimal interactions with this species, and electronic monitoring was unnecessary to track such interactions effectively. After considering the measures implemented under Amendment 11 that considered the requirements of the Magnuson-Stevens Act, the status of shortfin mako sharks, and the need for consistency, NFMS would apply a flexible retention limit with a default of zero to these gears.

Comment 11: Several commenters suggested measures that could be implemented instead of a retention limit of zero in the recreational fishery. Suggestions included a recreational limit of one shortfin mako shark per vessel per year; a limit of two sharks per year: one trophy size and one for personal consumption; banning the retention of females; banning retention in tournaments; mandatory reporting; increasing the minimum sizes; and managing shortfin mako sharks like deer (*i.e.,* through administration of a system that provides fishermen with a tag or limited number of tags). NMFS received a suggestion to implement a fee for each shortfin mako shark caught, and a higher fee if the shark is brought to the vessel dead.

Response: NMFS appreciates the comments suggesting ways to allow retention of shortfin mako sharks while reducing the overall number of sharks harvested. However, allowing retention of shortfin mako sharks would not be consistent with the purpose of this action to implement ICCAT Recommendation 21–09, which prohibits the retention of North Atlantic shortfin mako sharks in 2022 and 2023. NMFS is implementing a flexible shortfin mako shark retention limit with a default limit of zero for HMS permit holders. The limit of zero remains in place until NMFS changes it following consideration of regulatory criteria for inseason adjustment of shark trip limits and consistent with any ICCAT retention allowances pursuant to Recommendation 21–09. If a retention limit greater than zero is implemented for the recreational fishery, the current recreational shortfin mako shark restrictions would again also apply, including minimum size limits of 71 inches fork length (FL) (180 cm FL) for male and 83 inches FL (210 cm FL) for female shortfin mako sharks. Also of note, Recommendation 21–09 limits possible future retention of shortfin mako sharks to those that are dead at haulback. NMFS may consider additional management measures if ICCAT restrictions allow more retention of shortfin mako sharks in the future. For example, mandatory recreational catch reporting for pelagic sharks, including shortfin mako, may be considered in an upcoming rulemaking focused on reporting.

Comment 12: The State of Georgia commented that retention of oceanic whitetip and scalloped hammerhead sharks should be prohibited in Atlantic HMS fisheries due to their ESA threatened status.

Response: This comment is outside the scope of this rulemaking. NMFS

notes, however, that in 2020, NMFS released two Biological Opinions for HMS Fisheries under section 7(a)(2) of the ESA. These Biological Opinions strongly encouraged the inclusion of oceanic whitetip and scalloped hammerhead sharks as prohibited shark species for recreational and/or commercial Atlantic HMS fisheries. As a result, NMFS is currently considering undertaking rulemaking that considers prohibiting the commercial and recreational retention of scalloped hammerhead sharks in the Central and Southwest distinct population segment and of oceanic whitetip sharks throughout their range, consistent with the 2020 Biological Opinions. That proposed rule is expected later in 2022. This information is also included in Chapter 4.8 of the EA.

Comment 13: Some comments opposed allowing targeted catch-and-release recreational fishing for shortfin mako sharks.

Response: NMFS disagrees that targeted catch-and-release recreational fishing for shortfin mako sharks should not be permitted when the default retention limit of zero is in place. The purpose of this action is to implement ICCAT Recommendation 21–09, which prohibits retention of shortfin mako sharks. Catch-and-release fishing is consistent with the measures in Recommendation 21–09 and with implementation of a flexible retention limit with a default of zero. The retention limit of zero would prevent recreational fishermen from retaining shortfin mako sharks, which would reduce mortality. Allowing catch-and-release fishing is consistent with non-retention requirements. As described in Chapter 4 of the EA, studies have shown that post-release mortality among recreationally caught shortfin mako sharks is relatively low. Overall, the recreational measures, including a default retention limit of zero while allowing catch-and-release fishing, are anticipated to have a minor, beneficial effect on the stock. Additionally, by allowing fishermen to catch-and-release shortfin mako sharks, data required for stock assessments would continue to be collected. Specifically, NMFS could continue to collect recreational survey data for shortfin mako sharks, including data on effort and catch rates. Regarding socioeconomic impacts on the recreational fishery, as described in Chapter 4 of the EA, prohibiting catch-and-release fishing for shortfin mako sharks would double the estimated loss to supporting businesses and industries in recreational trip expenditures, increasing adverse impacts compared to the preferred alternative (reduction of $2.4 million in trip expenditures, compared to reduction of $1.1 million under the preferred alternative).

Comment 14: NMFS received a comment that the proposed rule only considered commercial fisheries and tournaments. The commenter requested that the recreational sector outside of tournaments be included if retention is allowed.

Response: This final rule implements a flexible shortfin mako shark retention limit with a default limit of zero in commercial and recreational HMS fisheries. To the extent that any future retention is allowed, consistent with the inseason trip limit adjustment criteria and Recommendation 21–09, any increase of the shortfin mako shark retention limit from the default, or subsequent decrease, could apply to the commercial fishery, the recreational fishery, or both. If the retention limit is increased above zero in the recreational fishery, that change could apply to both tournament and non-tournament fishing. Individual anglers, in additional to tournaments, are included in this action overall and in the analyses in the EA.

Comment 15: One commenter requested data on where overharvest of shortfin mako sharks is occurring and the harvest data for each country involved.

Response: NMFS acknowledges that countries other than the United States are responsible for the majority of North Atlantic shortfin mako shark fishing mortality, hence the need for international coordination through ICCAT on measures to end overfishing and rebuild the stock. Reported harvest levels by country are provided in the Task I catch data tables in the annual SCRS reports (2021 report available at *https://www.iccat.int/Documents/Meetings/Docs/2021/REPORTS/2021_SCRS_ENG.pdf,* shortfin mako shark data table on pages 260–261) and the ICCAT statistical database website (*https://www.iccat.int/en/accesingdb.html*).

Comment 16: NMFS received comments that the Magnuson-Stevens Act requires the Agency to develop a rebuilding plan for shortfin mako sharks since the stock was determined to be in an overfished condition.

Response: NMFS has an obligation to implement binding ICCAT recommendations under ATCA, consistent with our obligations under the ICCAT treaty. The Magnuson-Stevens Act requires NMFS to take measures to end overfishing and to rebuild the stocks. North Atlantic shortfin mako shark distribution spans a large portion of the North Atlantic Ocean basin and many countries besides the United States interact with the species. Addressing overfishing and an overfished status can only effectively be accomplished through international efforts where other countries that have large landings of shortfin mako sharks actively and equitably participate in mortality reduction and rebuilding plan discussions. Because of the small U.S. contribution to North Atlantic shortfin mako shark mortality, domestic reductions of shortfin mako shark mortality alone would not end overfishing of the entire North Atlantic stock. Under Amendment 11, NMFS established the foundation for developing an international rebuilding plan for shortfin mako sharks, by adopting measures to end overfishing and taking action at the international level through ICCAT to develop a rebuilding plan. As part of that measure, Amendment 11 stated that any international management recommendations adopted by ICCAT to address shortfin mako shark rebuilding and to reduce mortality would be implemented domestically consistent with ATCA, including measures implemented under that amendment. This action implements ICCAT Recommendation 21–09 in an effective way, addressing overfishing and starting to rebuild the stock. The measures in Recommendation 21–09 were adopted as part of a rebuilding program for North Atlantic shortfin mako shark starting in 2022, with the objectives to ''end overfishing immediately and gradually achieve biomass levels sufficient to support maximum sustainable yield (MSY) by 2070 with a probability of a range of between 60 and 70 percent at least.''

Comment 17: One commenter stated that NMFS should specify and implement additional catch monitoring and reporting measures to collect accurate and precise shortfin mako shark catch and bycatch information. Suggested measures include improving recreational data, enhancing commercial monitoring, and creating a public reporting portal for the recreational and commercial fisheries.

Response: NMFS agrees that catch monitoring and reporting are critical components of managing shortfin mako sharks, both at ICCAT and domestically, and that improvements to recreational data reporting are necessary at the international level. Toward this end, the United States advocated for strong reporting requirements to be included in Recommendation 21–09, including that ICCAT parties present their statistical methodology used to estimate dead discards and live releases to the SCRS

and that the SCRS review and approve or provide feedback on those methods, and that parties that do not appropriately report their shortfin mako shark landings and discards would not be able to retain this species when retention is otherwise allowable. These provisions were included in the recommendation (see paragraphs 13 and 14).

NMFS is not adopting additional catch monitoring and reporting requirements in this action. The purpose of this action is to implement ICCAT Recommendation 21–09. U.S. shortfin mako shark catch monitoring and reporting meet the requirements of Recommendation 21–09 and other relevant ICCAT recommendations, as well as domestic requirements. Therefore, NMFS does not agree that additional measures should be implemented under this action. Enhanced reporting may be considered in future rulemakings, for example, mandatory reporting of recreational catch of all pelagic sharks.

Comment 18: NMFS received a comment that the Agency should require full-chain traceability for all catches of shortfin mako sharks through the Seafood Import Monitoring Program and the pending Food and Drug Administration traceability rules, in order to close a loophole for any illegal catch of North Atlantic shortfin mako sharks.

Response: This comment is beyond the scope of this rulemaking. The purpose of this action is to implement ICCAT Recommendation 21–09, which prohibits the retention of North Atlantic shortfin mako sharks caught in association with ICCAT fisheries in 2022 and 2023, among other measures. For more information on the Seafood Import Monitoring Program, please refer to the website: *https://www.fisheries.noaa.gov/international/seafood-import-monitoring-program.*

Comment 19: NMFS received comments that the Agency recommends a probability of 70 percent for rebuilding of overfished stocks in domestic fisheries, which commenters stated was not in line with past U.S. proposals on shortfin mako shark management at ICCAT, or with the 250-mt mortality threshold in Recommendation 21–09.

Response: Consistent with the 2006 Consolidated HMS FMP, the HMS management risk policy for most Atlantic shark stocks is to ensure a 70-percent likelihood of success in ending and preventing overfishing, rebuilding overfished stocks, and maintaining healthy stocks, because most sharks have low reproductive potential, are long-lived, and have slow population growth rates. Within the existing risk policy, a range between 50 and 70 percent likelihood of success has also been considered depending on the stock and relevant circumstances, and is determined on a case-by-case basis.

The purpose of this action is to implement ICCAT Recommendation 21–09 on North Atlantic shortfin mako sharks. The measures in Recommendation 21–09 were adopted as part of a rebuilding program for North Atlantic shortfin mako shark starting in 2022 with the objectives to ''end overfishing immediately and gradually achieve biomass levels sufficient to support MSY by 2070 with a probability of a range of between 60 and 70 percent at least.'' These measures are consistent with ICCAT Recommendation 11–13 on the principles of decision making for ICCAT conservation and management measures and are also consistent with the HMS shark management risk policy and Magnuson-Stevens Act requirements.

Comment 20: One comment suggested that NMFS should consider the example of barndoor skate management, in which only limited landings under special permits were allowed before the population was declared fully rebuilt.

Response: Barndoor skates are managed by the New England Fishery Management Council under the Northeast Skate Complex FMP (Skate FMP). The stock was determined to be overfished and possession and landing were prohibited in 2003 when the Skate FMP was first implemented (68 FR 49693, August 19, 2003). As the stock was rebuilding, segments of the commercial skate fishery expressed an interest in developing an experimental fishery where limited landings would be permitted while collecting fishery and biological data. The study was approved under an EFP in 2014 (79 FR 26414, May 8, 2014), and the retention prohibition was ultimately removed in 2018 after the barndoor skate stock was determined to be rebuilt (83 FR 48985, September 28, 2018). While NMFS and the New England Fishery Management Council felt that this approach and timing were appropriate given the stock conditions and specific fishery circumstances in this case, there are a wide variety of considerations and information that fishery managers must evaluate when determining whether to prohibit retention of a species and potentially permitting retention of prohibited species. There are a number of critical differences between the barndoor skate fishery and fisheries that catch shortfin mako sharks; for example, barndoor skate is not internationally managed, is not a North Atlantic-wide stock, and does not have a recreational fishery.

The purpose of this action is to implement ICCAT Recommendation 21–09, including allowing for the possibility of limited future retention of shortfin mako sharks as determined by ICCAT consistent with this recommendation. Prohibiting shortfin mako shark retention while also allowing limited commercial retention under EFPs would not be consistent with the purpose of this action. Therefore, NMFS does not agree that barndoor skate fishery management is an appropriate model for U.S. shortfin mako shark fishery management.

Comment 21: NMFS received comments that the Agency should expand the electronic monitoring requirement for retention of shortfin mako sharks that are dead at haulback in commercial fisheries to cover vessels fishing with bottom longline or gillnet gear, in addition to vessels fishing with pelagic longline gear.

Response: In this action, the flexible shortfin mako shark retention limit with a default of zero applies in the HMS bottom longline and gillnet fisheries for sharks, although those fisheries are not considered to be ICCAT fisheries, which are defined as fisheries for tuna or tuna-like species under the current ICCAT Convention. This approach is described in the responses to Comments 8 and 10. NMFS did not, however, implement a requirement that electronic monitoring be onboard in these fisheries in Amendment 11, because bottom longline and gillnet fisheries have minimal interactions with this species, and electronic monitoring was unnecessary to track such interactions effectively. The details of the bottom longline and gillnet requirements under Amendment 11 were referenced in this action in order to better explain the scope of the gears included under changes to the shortfin mako shark retention limit. However, NMFS did not propose or consider any changes to the electronic monitoring requirements in this action. The purpose of the action is to implement ICCAT Recommendation 21–09, which does not require any regulatory changes in the United States regarding electronic monitoring. Therefore, this comment is beyond the scope of this rulemaking.

Comment 22: NMFS received comments encouraging the Agency to respond to the 2021 petition from Defenders of Wildlife to list shortfin mako sharks as a threatened or endangered species under the ESA.

Response: NMFS is actively working on the 12-month finding to consider

listing shortfin mako sharks under the ESA and plans to release the determination soon. Because this comment refers to listing species under the ESA, this is beyond the scope of this rulemaking.

Comment 23: NMFS received comments that the United States should seek to extend no retention of shortfin mako sharks at ICCAT, rather than adhering to possible future retention according to Recommendation 21–09. Another comment suggested that the United States should submit a proposal at ICCAT to limit total mortality of South Atlantic shortfin mako sharks, including the same reporting requirements as in Recommendation 21–09.

Response: These comments are beyond the scope of this rulemaking. To the extent that these comments are suggesting development of U.S. proposals at ICCAT, U.S. proposals and priorities for ICCAT generally are discussed in the context of the U.S. ICCAT Advisory Committee meetings, which typically have at least one session open to the public.

Comment 24: NMFS received a comment calling for banning longline gear and all shark fisheries.

Response: National Standard 1 of the Magnuson-Stevens Act requires NMFS to prevent overfishing while achieving, on a continuing basis, optimum yield from each fishery for the U.S. fishing industry. NMFS continually monitors the federal shark fisheries and, based on the best available scientific information, takes action needed to conserve and manage the fisheries. The purpose of this action is to implement ICCAT Recommendation 21–09 regarding North Atlantic shortfin mako sharks, as necessary and appropriate pursuant to ATCA, and to achieve domestic management objectives under the Magnuson-Stevens Act. Recommendation 21–09 prohibits retention of North Atlantic shortfin mako sharks caught in association with ICCAT fisheries in 2022 and 2023, among other measures. The measures in Recommendation 21–09 were adopted as part of a rebuilding program for North Atlantic shortfin mako shark starting in 2022, with the objectives to ''end overfishing immediately and gradually achieve biomass levels sufficient to support maximum sustainable yield (MSY) by 2070 with a probability of a range of between 60 and 70 percent at least.'' Banning longline gear and shark fisheries is beyond the scope of this action.

Classification

NMFS is issuing this rule pursuant to section 305(d) of the Magnuson-Stevens Act. The NMFS Assistant Administrator has determined that the final rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, ATCA, and other applicable law.

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and to make the rule effective three days after publication in the **Federal Register**. Further delaying the effectiveness of these regulations could undermine the purpose of this action to implement ICCAT Recommendation 21–09, which was adopted in November 2021 and enters into force June 17, 2022. If effectiveness is delayed, retention of shortfin mako sharks will continue to be allowed in Atlantic HMS fisheries under the current regulations well past the entry into force date of, and contrary to the requirements of, this binding international measure. For all of these reasons, there is good cause to waive the 30-day delay in the date of effectiveness.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

A final regulatory flexibility analysis (FRFA) was prepared for this rule. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and a summary of the analyses completed to support the action. A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary is provided below.

Section 604(a)(1) of the Regulatory Flexibility Act (RFA) requires agencies to state the need for, and objective of, the final action. This action is needed because the current HMS regulations allow retention of shortfin mako sharks in certain limited circumstances in HMS fisheries, which is inconsistent with the 2021 ICCAT recommendation. Under ATCA, NMFS is required to promulgate regulations as necessary and appropriate to implement binding ICCAT measures. This action is also needed in the non-ICCAT fisheries to provide consistency for the regulated community and for enforcement purposes, making the management measures more effective in addressing overfishing and starting to rebuild the stock.

The objective of this action is to implement ICCAT Recommendation 21–09 regarding North Atlantic shortfin mako sharks, as necessary and appropriate pursuant to ATCA, and to achieve domestic management objectives under the Magnuson-Stevens Act. Recommendation 21–09 prohibits retention of North Atlantic shortfin mako sharks caught in association with ICCAT fisheries in 2022 and 2023, among other measures. The measures in Recommendation 21–09 were adopted as part of a rebuilding program for North Atlantic shortfin mako shark starting in 2022, with the objectives to ''end overfishing immediately and gradually achieve biomass levels sufficient to support maximum sustainable yield (MSY) by 2070 with a probability of a range of between 60 and 70 percent at least.'' See Chapter 1 of the EA for a full description of the need for and objectives of the final rule.

Section 604(a)(2) of the RFA requires a summary of significant issues raised by the public in response to the IRFA, a summary of the agency's assessment of such issues, and a statement of any changes made as a result of the comments. NMFS received 22 written comments on the proposed rule and Draft EA during the public comment period. A summary of those comments and the agency's responses are described above. The comments did not refer to the IRFA or the economic impacts of the rule. One commenter (see Comment 3) noted that the rule would not have substantial economic impacts on commercial or for-hire fisheries or HMS tournaments.

Section 604(a)(3) of the RFA requires the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the SBA comments. NMFS did not receive comments from the Chief Counsel for Advocacy of the SBA in response to the proposed rule.

Section 604(a)(4) of the RFA requires agencies to provide descriptions of, and where feasible, an estimate of the number of small entities to which the rule would apply. 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. The SBA has established size standards for all other major industry sectors in the United States, including the scenic and sightseeing transportation (water) sector (NAICS code 487210), which includes

for-hire (charter/party boat) fishing entities. The SBA has defined a small entity under the scenic and sightseeing transportation (water) sector as one with average annual receipts (revenue) of less than $8 million.

NMFS considers all HMS permit holders, both commercial and for-hire, to be small entities because they had average annual receipts of less than their respective sector's standard of $11 million and $8 million. Regarding those entities that would be directly affected by the final measures, the average annual revenue per active pelagic longline vessel is estimated to be $202,000, based on approximately 90 active vessels that produced an estimated $18.2 million in revenue in 2020, well below the NMFS small business size standard for commercial fishing businesses of $11 million. No single pelagic longline vessel has exceeded $11 million in revenue in recent years. Other non-longline HMS commercial fishing vessels typically earn less revenue than pelagic longline vessels and, thus, would also be considered small entities.

The final rule would apply to the 213 Shark Directed limited access permit (LAP) holders, 256 Shark Incidental LAP holders, and 4,055 HMS Charter/Headboat permit holders, based on 2021 data. Of those HMS Charter/Headboat permit holders, 3,021 obtained shark endorsements. In 2018 and 2019, 800 HMS for-hire trips targeting shortfin mako sharks were taken per year on average (7 percent on average of total HMS for-hire trips), from Maine to Virginia as captured in Large Pelagics Survey data. These trips were taken by, on average, 10 percent of HMS for-hire charter/headboat vessels. On average, there were 44 Atlantic HMS tournaments that targeted pelagic sharks (primarily shortfin mako sharks) in 2018 through 2021. There were approximately 1,555 directed shortfin mako shark trips in registered HMS tournaments on average in 2018 through 2021. On average, 26 federally-permitted dealers per year purchased shortfin mako sharks in 2018 through 2020. NMFS has determined that the preferred alternative would not likely directly affect any small organizations or small government jurisdictions defined under the RFA, nor would there be disproportionate economic impacts between large and small entities.

Section 604(a)(5) of the RFA requires agencies to describe any new reporting, record-keeping, and other compliance requirements. This action does not contain any new collection of information, reporting, or record-keeping requirements.

Section 604(a)(6) of the RFA requires agencies to describe the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

As described below, NMFS analyzed several different alternatives in this final rulemaking and provides rationales for identifying the preferred alternatives to achieve the desired objectives. The FRFA assumes that each vessel will have similar catch and gross revenues to show the relative impact of the final action on vessels.

Alternative 1, the no action alternative, would not implement any new management measures in the commercial or for-hire shark fisheries to decrease mortality of shortfin mako sharks. In recent years, about 49,000 pounds dressed weight (dw) (22,000 kilograms dw) of shortfin mako sharks have been landed commercially on average from 2018 through 2020 and the commercial revenues from shortfin mako sharks have averaged approximately $96,000 per year. The number of pounds of shortfin mako shark landed, revenue, and number of pelagic longline vessels that landed shortfin mako sharks was lower in 2020 compared to 2018 and 2019 (average landings in 2018 and 2019 were 55,700 pounds dw (25,000 kilograms dw), average revenue was approximately $109,600 per year, and average number of pelagic longline vessels landing shortfin mako sharks was 53). Almost all of the shortfin mako shark commercial landings, based on dealer reports, were made by pelagic longline vessels. An average of 49 pelagic longline vessels landed shortfin mako sharks from 2018 through 2020. Therefore, the average annual revenue from shortfin mako shark landings per pelagic longline vessel is approximately $1,960 per year ($96,000/49) under the current regulations. For-hire shark fishing operations by HMS Charter/Headboat permit holders as well as HMS tournament operations would also remain the same. This alternative would result in no additional economic impacts on small entities associated with these fisheries in the short- or long-term.

Alternative 2, the preferred alternative, would implement a flexible shortfin mako shark retention limit with a default limit of zero. The limit of zero would be in place unless and until changed after considering inseason trip limit adjustment criteria (§ 635.24(a)(8)) and when consistent with ICCAT retention allowances pursuant to Recommendation 21–09. This would apply to commercial vessels issued a Shark Directed or Shark Incidental LAP and to HMS Charter/Headboat permit holders. Under a retention limit of zero, HMS for-hire fishermen and commercial vessels would be required to release all shortfin mako sharks that are alive at haulback and discard all shortfin mako sharks that are dead at haulback.

In recent years, about 49,000 pounds dw (22,000 kilograms dw) of shortfin mako sharks have been landed commercially on average from 2018 through 2020, and the commercial revenues from shortfin mako sharks have averaged approximately $96,000 fishery-wide per year. Almost all of the shortfin mako shark commercial landings, based on dealer reports, were made by pelagic longline vessels. An average of 49 pelagic longline vessels landed shortfin mako sharks from 2018 through 2020. Therefore, the average loss in annual revenue from shortfin mako shark landings per pelagic longline vessel that landed shortfin mako sharks would be approximately $1,960 per year ($96,000/49). However, the overall economic impacts associated with these reductions in revenue are not expected to be substantial, as shortfin mako sharks comprise less than one percent of total HMS ex-vessel revenues on average. Additionally, the magnitude of shortfin mako landings by other commercial gear types (bottom longline and gillnet) is very small.

This alternative would have minor economic costs on small entities in those commercial fisheries compared to the no action alternative because these measures would reduce the number of shortfin mako sharks landed and sold by these fishing vessels. Shortfin mako sharks are rarely a target species, however, and generate much less revenue overall than other more valuable target species. In for-hire fisheries and tournaments, retention would be prohibited, and fishermen would only be authorized to catch and release shortfin mako sharks. A retention limit of zero for shortfin mako sharks is likely to be a disincentive to fishing by some portion of the for-hire shark fishery, particularly those individuals that would otherwise have planned to target and retain shortfin mako sharks. Charter/Headboat operators may experience some decline in demand if shortfin mako sharks may not be retained, resulting in minor adverse economic impacts. For Atlantic

HMS tournaments, the 1,555 directed shortfin mako shark trips, on average, that take place in HMS tournaments would likely no longer take place, resulting in a loss of approximately $1.1 million in expenditures, out of an estimated $85.6 million in total HMS tournament expenditures by participating teams. Overall, this alternative would have minor economic costs on small entities in the short-term compared to the no action alternative.

During the fishing year, based on the inseason trip limit adjustment criteria (§ 635.24(a)(8)), and to the extent consistent with any future retention allowance that is determined by ICCAT pursuant to Recommendation 21–09, NMFS could increase the shortfin mako shark retention limit for the commercial fishery, the recreational fishery, or both, as appropriate. If the retention limit for the commercial and recreational fisheries is greater than zero, the current shortfin mako shark regulatory requirements, described under Alternative 1, would apply. This would result in no additional economic impacts on small entities associated with this fishery in the long-term compared to the no action alternative.

Alternative 3 would add shortfin mako sharks to the prohibited sharks species group to prohibit any catch or retention of shortfin mako sharks in commercial and recreational HMS fisheries. See Table 1, section D, in appendix A to 50 CFR part 635 (list of prohibited sharks), § 635.24(a)(5) (related vessel restrictions), and § 635.34(c) (criteria for adding species to, or removing species from, the prohibited shark species group). The overall economic impacts associated with reductions in revenue for the commercial and for-hire fisheries and HMS tournaments would be similar to those described under Alternative 2 and are not expected to be substantial, as shortfin mako sharks comprise less than one percent of total HMS ex-vessel revenues on average. This alternative would have minor economic costs on small entities in commercial fisheries because no shortfin mako sharks would be landed and sold by these fishing vessels under these measures. Shortfin mako sharks are rarely a target species, however, and generate less revenue overall than other more valuable target species. In for-hire fisheries and tournaments, retention would be prohibited, and fishermen would only be authorized to catch and release shortfin mako sharks. A prohibition on the retention of shortfin mako sharks is likely to be a disincentive for some portion of the for-hire shark fishery, particularly those individuals that would otherwise have planned to target and retain shortfin mako sharks. Charter/Headboat operators may experience some decline in demand, resulting in adverse economic impacts. For Atlantic HMS tournaments, the 1,555 directed shortfin mako shark trips, on average, that take place in HMS tournaments would likely no longer take place, resulting in a loss of approximately $1.1 million in expenditures, out of an estimated $85.6 million in total HMS tournament expenditures by participating teams. Overall, Alternative 3 would have minor economic costs on small entities in the short- and long-term.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a web page that also serves as small entity compliance guide (the guide) was prepared. This final rule and the guide are available on the HMS Management Division website at *https://www.fisheries.noaa.gov/action/proposed-changes-atlantic-shortfin-mako-shark-retention-limits* or by contacting Carrie Soltanoff at *carrie.soltanoff@noaa.gov* or 301–427–8503.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: June 27, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for part 635 continues to read as follows:

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

■ 2. In § 635.20, revise paragraph (e)(6) to read as follows:

§ 635.20 Size limits.

* * * * *

(e) * * *

(6) For shortfin mako sharks landed when the recreational retention limit specified at § 635.22(c)(8) is greater than zero, males must be at least 71 inches (180 cm) fork length, and females must be at least 83 inches (210 cm) fork length.

* * * * *

■ 3. In § 635.21, revise paragraph (c)(1)(iv) to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(c) * * *

(1) * * *

(iv) Has pelagic longline gear on board, persons aboard that vessel are required to promptly release in a manner that causes the least harm any shortfin mako shark that is alive at the time of haulback, consistent with the requirements specified at paragraphs (a)(1) and (c)(6)(i) of this section. When the commercial retention limit specified at § 635.24(a)(4)(v) is greater than zero, any shortfin mako shark that is dead at the time of haulback may be retained provided the electronic monitoring system is installed and functioning in compliance with the requirements at § 635.9.

* * * * *

■ 4. In § 635.22, revise paragraph (c)(2) and add paragraph (c)(8) to read as follows:

§ 635.22 Recreational retention limits.

* * * * *

(c) * * *

(2) Only one shark from the following list may be retained per vessel per trip, subject to the size limits described in § 635.20(e)(2) and (4): Atlantic blacktip, Gulf of Mexico blacktip, bull, great hammerhead, scalloped hammerhead, smooth hammerhead, lemon, nurse, spinner, tiger, blue, common thresher, oceanic whitetip, porbeagle, Atlantic sharpnose, finetooth, Atlantic blacknose, Gulf of Mexico blacknose, and bonnethead.

* * * * *

(8) At the start of each fishing year, the default shortfin mako shark retention limit of zero sharks per vessel per trip will apply. During the fishing year, NMFS may adjust the default shortfin mako shark trip limit per the inseason trip limit adjustment criteria listed in § 635.24(a)(8). Any retention within the trip limit is subject to the size limits described in § 635.20(e)(6).

* * * * *

■ 5. In § 635.24:

■ a. Add paragraph (a)(4) introductory text;

■ b. Revise paragraphs (a)(4)(i) and (iii);
■ c. Add paragraph (a)(4)(v);
■ d. Revise paragraphs (a)(8)(v) and (vi); and
■ e. Add paragraph (a)(8)(vii).

The additions and revisions read as follows:

§ 635.24 Commercial retention limits for sharks, swordfish, and BAYS tunas.

* * * * *

(a) * * *

(4) Additional retention limits for sharks. (i) Except as provided in § 635.22(c)(7), a person who owns or operates a vessel that has been issued a directed shark LAP may retain, possess, land, or sell pelagic sharks if the pelagic shark fishery is open per §§ 635.27 and 635.28. Shortfin mako sharks may be retained by persons aboard vessels using pelagic longline, bottom longline, or gillnet gear only if NMFS has adjusted the commercial retention limit above zero pursuant to paragraph (a)(4)(v) of this section and only if the shark is dead at the time of haulback and consistent with the provisions of §§ 635.21(c)(1), (d)(5), and (g)(6) and 635.22(c)(7).

* * * * *

(iii) Consistent with paragraph (a)(4)(ii) of this section, a person who owns or operates a vessel that has been issued an incidental shark LAP may retain, possess, land, or sell no more than 16 SCS and pelagic sharks, combined, per vessel per trip, if the respective fishery is open per §§ 635.27 and 635.28. Of those 16 SCS and pelagic sharks per vessel per trip, no more than 8 shall be blacknose sharks. Shortfin mako sharks may be retained under the commercial retention limits by persons using pelagic longline, bottom longline, or gillnet gear only if NMFS has adjusted the commercial retention limit above zero pursuant to paragraph (a)(4)(v) of this section and only if the shark is dead at the time of haulback and consistent with the provisions at § 635.21(c)(1), (d)(5), and (g)(6). If the vessel has also been issued a permit with a shark endorsement and retains a shortfin mako shark, recreational retention limits apply to all sharks retained and none may be sold, per § 635.22(c)(7).

* * * * *

(v) At the start of each fishing year, the default shortfin mako shark retention limit of zero sharks will apply. During the fishing year, NMFS may adjust the default shortfin mako shark trip limit per the inseason trip limit adjustment criteria listed in paragraph (a)(8) of this section.

* * * * *

(8) * * *

(v) Variations in seasonal distribution, abundance, or migratory patterns of the relevant shark species based on scientific and fishery-based knowledge;

(vi) Effects of catch rates in one part of a region or sub-region precluding vessels in another part of that region or sub-region from having a reasonable opportunity to harvest a portion of the relevant quota; and/or

(vii) Any shark retention allowance set by ICCAT, the amount of remaining allowance, and the expected or reported catch rates of the relevant shark species, based on dealer and other harvest reports.

* * * * *

■ 6. In § 635.27, revise paragraph (b)(4)(i) and add paragraph (b)(4)(v) to read as follows:

§ 635.27 Quotas.

* * * * *

(b) * * *

(4) * * *

(i) The base annual quota for persons who collect LCS other than sandbar, SCS, pelagic sharks other than shortfin mako, blue sharks, porbeagle sharks, or prohibited species under a display permit or EFP is 57.2 mt ww (41.2 mt dw).

* * * * *

(v) No persons may collect shortfin mako sharks under a display permit. Collection of shortfin mako sharks for research under EFPs and/or SRPs may be considered on a case-by-case basis and any associated mortality would be deducted from the shark research and display quota if shortfin mako shark retention is otherwise prohibited or counted against U.S. allowable retention levels established at ICCAT when retention is allowed.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 180117042–8884–02; RTID 0648–XC020]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the Angling category northern area fishery for large medium and giant Atlantic bluefin tuna (BFT) (*i.e.,* ''trophy'' fish measuring 73 inches (185 cm) curved fork length or greater). This closure applies to Highly Migratory Species (HMS) Angling and Atlantic HMS Charter/Headboat permitted vessels when fishing recreationally for BFT. This action is necessary because landings data indicate the Angling category northern area trophy BFT subquota of 1.8 mt has been reached and exceeded.

DATES: Effective 11:30 p.m., local time, June 29, 2022, through December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Ann Williamson, *ann.williamson@noaa.gov,* 301–427–8503, Larry Redd, Jr., *larry.redd@noaa.gov,* 301–427–8503, or Nicholas Velseboer, *nicholas.velseboer@noaa.gov,* 978–281–9260.

SUPPLEMENTARY INFORMATION: Atlantic HMS fisheries, including BFT fisheries, are managed under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. Section 635.27 divides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and as implemented by the United States among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic HMS FMP and its amendments. NMFS is required under the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest quotas under relevant international fishery agreements such as the ICCAT Convention, which is implemented domestically pursuant to ATCA.

Under § 635.28(a)(1), NMFS files a closure notice with the Office of the Federal Register for publication when a BFT quota (or subquota) is reached or is projected to be reached. Retaining, possessing, or landing BFT under that quota category is prohibited on and after the effective date and time of a closure notice for that category, for the remainder of the fishing year, until the opening of the subsequent quota period or until such date as specified.

The 2022 BFT fishing year, which is managed on a calendar-year basis and subject to an annual calendar-year quota, began January 1, 2022. The