

Response: NMFS is considering several quota alternatives in Amendment 1 to the HMS FMP and may consider this comment in that or in another rulemaking.

Comment 10: Harvesting sharks for meat or cartilage is completely unnecessary.

Response: NMFS disagrees. Sharks are a fishery resource that contributes to the food supply, economy, and health of the Nation as described in the Magnuson-Stevens Act.

Comment 11: NMFS should educate the public about sharks and their behavior to dispel the "Jaws" misconception. Sharks are much more economically valuable alive than dead.

Response: NMFS agrees that there are misconceptions about sharks and has made efforts to educate the public through various media including the internet. For instance, in early 2002, NMFS announced the availability of a website devoted exclusively to shark education at <http://www.nmfs.noaa.gov/sharks/> and will soon release an identification guide for all HMS including sharks. NMFS agrees that sharks are economically valuable, both as a harvested resource, and as a component of the marine environment that user groups, such as scuba divers, may wish to observe in the wild. NMFS believes that the sustainable harvest of sharks will not prevent segments of the population who derive economic benefit from sharks living in the wild or in public display facilities to continue doing so.

Comment 12: Sharks are top predators in the marine food chain and harvesting them will disrupt the food web.

Response: NMFS agrees that sharks are an important component of the marine environment and current regulations are designed to promote a sustainable fishery. Through sound conservation and management, NMFS believes that shark populations can be rebuilt and that the ocean's food web will not be disrupted.

Comment 13: NMFS should lobby Asians to stop shark finning.

Response: NMFS cannot regulate fishing vessels from other countries. However, the Shark Finning Prohibition Act which was passed on December 21, 2000, and implemented on February 2, 2002 (67 FR 6194), prevents any person subject to U.S. jurisdiction from engaging in shark finning (finning is the practice of removing the fin or fins from a shark and discarding the remainder of the shark). Additionally, the Shark Finning Prohibition Act requires the United States to initiate discussions with other nations regarding the prohibition on shark finning. NMFS has

been working with other countries in regard to this. By becoming a signatory nation to the United Nations Food and Agriculture Organization's International Plan of Action on Sharks, the United States has agreed that shark conservation is a concern, both domestically and internationally. The United States has also agreed that all nations and international fishery organizations should take action to ensure that shark populations are monitored, and fishery conservation measures are implemented, to protect sharks from over-exploitation.

Comment 14: Sharks are going extinct.

Response: While some sharks species are overfished, NMFS does not believe they are going extinct. To the contrary, the most recent LCS and SCS stock assessments indicate that several of the most heavily exploited species are no longer overfished and that others are showing positive signs of recovery. Species that are of particular concern are on the candidate species list for listing under ESA, or are on the prohibited species list. However, no species are listed under the ESA at this time.

Comment 15: Sharks may be an important cure for cancer.

Response: NMFS agrees that sharks may be important in our search for cures to certain diseases, and NMFS fully supports further research in this area.

Clarification of the Dead Discard Accounting

After receiving public comments on the emergency rule issued December 27, 2002 (67 FR 78990), NMFS noted some confusion regarding which dead discards are counted against the commercial shark quotas. This confusion presented itself particularly in regard to SCS. Specifically, shrimp trawl discards of SCS from 1998 to 2000 ranged from 570 mt dw to 1,093 mt dw annually with an average of 744 mt dw of discards annually. This average amount is 418 mt dw greater than the SCS annual quota of 326 mt dw established by the emergency rule. As analyzed in the HMS FMP, the provision to count dead discards against the annual quota applies only to incidental catch by fishermen that hold HMS fishing permits.

Annual Landings Quotas

The 2003 annual landings quotas for LCS and SCS are maintained at 783 metric tons mt dw for ridgeback LCS, 931 mt dw for non-ridgeback LCS, and 326 mt dw for SCS. The 2003 quota levels for pelagic, blue, and porbeagle sharks are maintained at 488 mt dw, 273 mt dw, and 92 mt dw, respectively.

Of the 655.5 mt dw established for the second 2002 semiannual LCS season (67 FR 37354, May 29, 2002), 589 mt dw was taken. As explained in the notice announcing the first 2003 semiannual season (67 FR 78990, December 27, 2002), NMFS is adding the remaining 65 mt dw to the available quota for the second 2003 semiannual LCS fishing season. In the past, landings between the ridgeback and non-ridgeback LCS species groups have been approximately the same. Thus, this additional amount will be split equally between the ridgeback and non-ridgeback LCS species groups. As such, the ridgeback LCS quota for the second 2003 semiannual season is 424 mt dw. The non-ridgeback LCS quota for the second 2003 semiannual season is 498 mt dw. The SCS second 2003 semiannual quota is established at 163 mt dw. The second 2003 semiannual quotas for pelagic, blue, and porbeagle sharks are established at 244 mt dw, 136.5 mt dw, and 46 mt dw, respectively.

Fishing Season Notification

The second semiannual fishing season of the 2003 fishing year for the commercial fishery for ridgeback and non-ridgeback LCS, SCS, and pelagic sharks in the western north Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, will open July 1, 2003. To estimate the closure dates of LCS, NMFS used the average catch rates for each species group from the second seasons from the years 2000, 2001, and 2002 and also considered the reporting dates of permitted shark dealers and the potential for discards. Based on average ridgeback LCS catch rates in recent years, approximately 75 percent of the available ridgeback LCS quota would likely be taken by the second week of September and approximately 90 percent of the available ridgeback LCS quota would likely be taken by the last week of September. Based on average non-ridgeback catch rates in recent years, approximately 80 percent on the non-ridgeback LCS quota would likely be taken by the second week in September and approximately 95 percent of the non-ridgeback LCS quota would likely be taken by the last week in September. The second week corresponds with the end of the first biweekly reporting period for September for permitted shark dealers. In order to ensure the quota is not exceeded once dead discards and state landings are accounted for, NOAA Fisheries believes closing the fishery by the second week of September is prudent. Accordingly, the Assistant Administrator for Fisheries (AA) has determined that the ridgeback and non-ridgeback LCS