

peer review of the 1998 LCS stock assessment, conducted a new LCS stock assessment after considering the results of the peer review, and conducted a non-NMFS peer review of the new LCS stock assessment.

The peer review of the 1998 LCS stock assessment found that the scientific conclusions and scientific management recommendations contained in the 1998 LCS stock assessment were based neither on scientifically reasonable uses of the appropriate fisheries stock assessment techniques nor on the best available (at the time of the 1998 LCS stock assessment) biological and fishery information relating to LCS. Because of this conclusion, NMFS determined that the 1998 LCS stock assessment was not an appropriate basis for any prior or subsequent rulemaking and that a new stock assessment was needed in order to revise the regulations that were based on the 1998 LCS stock assessment and implemented in the 1999 HMS FMP.

In 2002, NMFS conducted both an SCS stock assessment (67 FR 30879, May 8, 2002) and an LCS stock assessment (67 FR 69180, October 17, 2002). The SCS stock assessment was the first SCS stock assessment since 1992. It found that the SCS complex was not overfished and that overfishing was not occurring. Additionally, it found that Atlantic sharpnose, bonnethead, and blacknose sharks were not overfished and that overfishing was not occurring. It also found that finetooth sharks, while not overfished, are experiencing overfishing.

The 2002 LCS stock assessment found that the LCS complex is still overfished and that overfishing is still occurring. Additionally, it found that sandbar sharks are rebuilt but are still experiencing overfishing and that blacktip sharks are rebuilt and are not experiencing overfishing. The peer reviews of the 2002 LCS stock assessment supported the assessment and concluded that the models and methodology used were appropriate.

On November 15, 2002 (67 FR 69180), NMFS announced its intent to prepare an environmental impact statement and amend the HMS FMP as a result of these two stock assessments. In February and March 2003, NMFS held seven scoping meetings, including one at the Highly Migratory Species (HMS) Advisory Panel meeting, to discuss and collect comments on an Issues and Options Paper (68 FR 31987, January 27, 2003). NMFS received many comments, which were considered to develop the alternatives considered in the pre-DEIS for draft Amendment 1. On April 21, 2003, NMFS released a pre-draft document to the consulting parties

(Fishery Management Councils, the commissioners and advisory groups of the International Commission for the Conservation of Atlantic Tunas (ICCAT), and the HMS and Billfish Advisory Panels established under the Magnuson-Stevens Act) and subsequently received and considered comments in developing draft amendment 1 and the proposed rule.

At this time, NMFS is not proposing any specific management measures for pelagic sharks. The International Commission for the Conservation of Atlantic Tunas (ICCAT) is planning to conduct a pelagic shark stock assessment for several pelagic sharks in 2004, and NMFS will likely consider specific pelagic sharks measures thereafter. However, to the extent that all shark management is interrelated, it is possible that the management measures proposed here would affect pelagic sharks. For instance, while NMFS is not proposing to change the pelagic shark quota at this time, depending on the results of the 2004 pelagic shark assessment, NMFS may use the same quota basis for setting the pelagic shark quota in the future.

NMFS is also proposing to remove and reserve § 635.16. This section of the regulations pertain only to the issuance of initial limited access permits (ILAPs). At this time, all appeals and lawsuits regarding ILAPs are complete, and the regulations are no longer relevant.

The following is a summary of the preferred alternatives analyzed in the DEIS for Amendment 1 and the revised rebuilding timeframe for LCS. These elements are arranged in the following sections: LCS rebuilding timeframe, commercial management measures, recreational management measures, bycatch reduction measures, and other proposed management measures.

### 1. LCS Rebuilding Timeframe

In the 1999 HMS FMP, NMFS established separate rebuilding timeframes for ridgeback and non-ridgeback LCS. These rebuilding timeframes, using sandbar and blacktip sharks as proxies for ridgeback and non-ridgeback LCS, respectively, were based on the projections from the 1998 LCS stock assessment. As a result of the peer review of the 1998 LCS stock assessment and the change of status in sandbar and blacktip sharks, NMFS is proposing to revise the timeframe to rebuild LCS. Because the proposed timeframe is based on the results of the 2002 stock assessment regarding the LCS complex, the proposed timeframe would be appropriate for overfished LCS regardless of whether NMFS finalizes the preferred LCS classification

alternative, described below, to aggregate the ridgeback and non-ridgeback LCS species groups, or takes no action and maintains the ridgeback/non-ridgeback split.

The 2002 LCS stock assessment found that the LCS complex is overfished and experiencing overfishing. The stock assessment indicated that a zero landings policy would have, on average, a 68-percent chance of rebuilding the LCS complex to maximum sustainable yield (MSY) within 10 years. Thus, even prohibiting fishing for 10 years does not quite give a 70-percent chance of rebuilding the complex to MSY (this is the level of confidence identified in the HMS FMP associated for shark management). Assuming a linear relationship between the results at 10 and 20 years, it appears that the LCS complex has approximately a 70-percent chance of rebuilding to MSY under a zero fishing policy in approximately 11 years. Given the results of the 2002 LCS stock assessment and the requirements of the Magnuson-Stevens Act, NMFS believes that the rebuilding timeframe for the LCS complex should be the amount of time it would take to rebuild under a zero fishing policy plus one mean generation time.

Using the average of the several LCS species, the mean generation time for the LCS complex is approximately 16 years. NMFS used the average generation time of several species instead of picking one species because of the wide biological diversity of sharks and because the stock assessment did not state that there was any one species that was of particular concern.

Thus, the rebuilding timeframe for the LCS complex is as follows: 11 years (time to reach MSY under a zero fishing policy) + 16 years (mean generation time of LCS species) = 27 years. The projections in the 2002 LCS stock assessment indicate that the stock could be rebuilt 27 years from 2002, which is within the same time period projected under the 1999 HMS FMP. If the measures proposed in this action are implemented in 2004, the LCS complex would still have approximately a 70-percent chance of rebuilding within 27 years based on the stock assessment projections.

### 2. Proposed Commercial Management Measures

The measures analyzed in this category include the following issues: LCS classification, shark quota administration, shark quota basis, and minimum size restrictions. The alternatives for these issues are described below.