



Mid-Atlantic Fishery Management Council

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Michael P. Luisi, Chairman | P. Weston Townsend, Vice Chairman

Christopher M. Moore, Ph.D., Executive Director

MEMORANDUM

Date: July 27, 2023

To: Chris Moore, Executive Director

From: Hannah Hart, Staff

Subject: Draft Comments for the NOAA Highly Migratory Species Amendment 15, Advance Notice for Proposed Rulemaking: Electronic Reporting, and Amendment 16

The Council's Highly Migratory Species (HMS) Committee met on July 11, 2023, to review and provide comments on multiple NOAA HMS management initiatives. These initiatives include the proposed rule for [Amendment 15](#) (spatial management and electronic monitoring), an [Advance Notice of Proposed Rulemaking on Electronic Reporting](#), and scoping for [Amendment 16](#) (shark management issues). Attached is a summary of the Committee's discussion and recommended comments. The Committee is requesting Council endorsement on the recommended comments which would then be put into a comment letter and submitted to NOAA HMS leadership prior to the public comment deadline.



Highly Migratory Species (HMS) Committee
Webinar Meeting
July 11, 2023
Meeting Summary

Committee Attendees: Dewey Hemilright, Scott Lenox, Skip Feller, Paul Risi, David Stormer, and Sonny Gwin.

Additional Attendees: Hannah Hart, Greg DiDomenico, Meghan Lapp, Alan Bianchi, Will Polston.

The HMS Committee met via webinar on Tuesday, July 11, 2023 to review and provide comments on three NOAA HMS management initiatives. These management initiatives include the proposed rule for Amendment 15 (spatial management and electronic monitoring), an Advance Notice of Proposed Rulemaking on Electronic Reporting Requirements, and scoping for Amendment 16 (shark management issues).

Committee Discussion and Recommended Comments

Amendment 15

The proposed rule has two broad components: (1) Modification, data collection, and assessment of four commercial longline spatial management areas; and (2) Modification of the administration and funding of the HMS pelagic longline electronic monitoring program. The four commercial longline spatial management areas (the Mid-Atlantic Shark, Charleston Bump, East Florida Coast, and DeSoto Canyon closed areas) currently prohibit commercial bottom or pelagic longline fishing during all or portions of the year. The proposed measures would modify the areas and allow data collection to help assess their efficacy. The proposed rule also includes modifications to the administration and funding of the HMS pelagic longline electronic monitoring program, including considerations of transitioning sampling costs from the Agency to industry. The public comment period for Amendment 15 closes on September 15, 2023.

Spatial Management – NOAA HMS Preferred Alternative A1d, B1, C2, and C4

The first component of Amendment 15 considers modification, data collection, and analysis of four current spatial management areas that restrict or prohibit commercial fishing. The Committee reviewed the NOAA HMS preferred alternative package for the Mid-Atlantic shark closed area, where the use of bottom longline gear is currently prohibited, with the exception of data collection. This package would extend the eastern boundary of the current closed area and shift the timing of the closure from January 1 – July 31 to November 1 – May 31. The preferred alternative package would not require commercial data collection but would establish a timeline for when the spatial management area would be re-evaluated in the future to ensure continued assessment of these areas. The NOAA HMS preferred alternative for the evaluation timing is every three years or if

triggered by a set of provisions. Although the Committee was supportive of these measures, they had some reservations and believe the proposed rule will have little to no impact on the fishing industry given the limited shark fishing occurring in this area.

Pelagic Longline Electronic Monitoring Cost Allocation – Preferred Alternative F2

The second component of Amendment 15 considers cost allocation of the HMS pelagic longline EM program. The Committee did not support the NOAA HMS preferred alternative F2, which proposes transferring the electronic monitoring (EM) sampling cost to the industry. The Committee expressed concerns related to the cost associated with the EM systems and the significant financial burden this would place on fisherman. The Committee was also concerned about the potential cost associated with the vendors, lack of negotiable rates, and the unpredictability of system failures. The Committee noted that these issues could have severe impacts on the industry.

The Committee recognized the importance of the current EM program and recommended NOAA HMS reconsider the preferred alternative and suggested F1, no action, as the preferred. Given the limited number of active vessels with bluefin tuna Individual Bluefin tuna Quota (IBQ) and the significant cost associated with the program, the Committee advocated for maintaining the current agency-funded EM program.

The Committee commented that if the current agency-funded EM program could not be maintained, then NOAA HMS should consider addressing electronic monitoring cost allocation through a separate action to allow for a more comprehensive evaluation of available options and provide opportunities to reconsider other alternatives.

Advance Notice of Proposed Rulemaking: Electronic Reporting Requirements for HMS

NOAA HMS is considering several electronic reporting requirements. Some topics under consideration include converting existing commercial paper logbooks to electronic logbooks, expanding logbook reporting to permit holders in additional commercial fisheries and certain recreational fisheries (e.g., HMS Charter/Headboat) via electronic logbooks. As well as collect additional information through existing electronic reporting mechanisms for dealers and recreational permit holders, facilitate HMS reporting through incentives and/or penalties, and provide electronic reporting for HMS Exempted Fishing Permit Program permit holders. The public comment period for the Advance Notice of Proposed Rulemaking on Electronic Reporting closes on August 18, 2023.

The Committee supported NOAA HMS's proposal to implement and/or transition to electronic reporting requirement for NOAA HMS managed species across all sectors. The Committee emphasized the importance of electronic reporting and its ability to gather comprehensive and timely information on catch and landings data. However, the Committee also stressed the importance of streamlining the electronic reporting process and advocated that NOAA HMS consider a unified approach with other regions and fisheries. The Committee also recommended NOAA HMS consider a one-stop reporting system that would facilitate angler's ability to report their catch and satisfy the various reporting requirements that already exist (e.g., New England and Mid-Atlantic commercial and for-hire reporting, private recreational tilefish reporting, etc.). The Committee noted that there are a number of online and application platforms that already exist and that it would be beneficial to both fishermen and NOAA HMS to utilize existing platforms.

The Committee acknowledged compliance issues that are often associated with electronic reporting requirements. The Committee agreed that penalties or incentives may be necessary to enhance compliance rates, and recommended NOAA HMS consider a program that incentivizes participation and encourages accurate data submission.

The Committee also highlighted the importance of balancing simplicity with effective enforcement measures. The Committee noted that the reporting process should be user-friendly while also having appropriate penalties for non-compliance. Creating a system that is easy to navigate but also holds individuals accountable for accurate reporting will be crucial to the program's success.

The Committee had several questions about the proposed electronic reporting requirements but acknowledged these details would likely be explained in the proposed rule. The Committee also recommended NOAA HMS work with GARFO and the regional Councils as they go through this proposed rulemaking process.

Public Comment

An industry representative commented on the Advance Notice of Proposed Rulemaking and emphasized the importance of electronic reporting requirements to adequately manage HMS species. He noted the significant overlap in the HMS and tilefish fisheries and spoke in favor of NOAA HMS implementing and/or transitioning to electronic reporting across all sectors. The industry representative recommended that this action also considers requiring:

- The documentation number attached to the vessel and permit.
- Permit holders to report all gear types onboard (e.g., electric reels, bandit reels, etc.)
- The unique identifier for an individual's U.S. coastguard safety number.
- For-hire permitted vessels that also have a for-sale endorsement to declare their intent/fishing trip type prior to leaving the dock (i.e., for-hire vs. commercial trip).
- "Did not fish" reports.
- Permit holders to identify all their permits (e.g., GARFO permits, etc.) in the reporting system.

The industry representative noted the importance of adding all these requirements to the proposed action. He also expressed that because there are over 6,000 HMS permit holders, implementing rigid reporting requirements is essential to the management of a fleet of this magnitude.

Amendment 16 – Shark Management Issues

NOAA HMS is seeking feedback on a range of shark issues and options. Some of these issues include a variety of commercial and recreational fishery options based on the revised acceptable biological catch and annual catch limits (ACLs) for shark stocks. Potential revisions to commercial fishery options for shark management groups and quotas along with commercial retention limits, and revisions to recreational retention and size limits. The public comment period for Amendment 16 closes on August 18, 2023.

The Committee agreed with the need for more flexibility in the management of sharks and expressed support for measures that would increase harvest opportunities. The Committee recommended adjusting commercial trip limits to better complement the annual catch limits. The

Committee expressed that in many cases the current trip limits are too restrictive and have limited fishing efforts and industry's ability to catch the quota.

Although the Committee noted that although Amendment 16 represents progress, there was concern that the rulemaking would have minimal impact on the fishing industry given the limited number of participants in the fishery and lack of a market. The Committee also expressed that there is minimal recreational effort on sharks due to the regulations on thresher and short fin mako shark, which historically have been the primary species targeted for food. However, the Committee recognized that in some areas there is still a small food fishery and for this reason was supportive of Amendment 16 and the intent of this action.

The Committee also discussed the Shark Fin Elimination Act and the confusion associated with the proper way to dispose of the fins after the shark has been landed. The Committee recommended NOAA HMS provide clear messaging on this issue to avoid any future challenges.