

Draft Addendum for Public Comment

Atlantic States Marine Fisheries Commission

**DRAFT ADDENDUM V TO THE INTERSTATE FISHERY
MANAGEMENT PLAN FOR ATLANTIC COASTAL SHARKS FOR
PUBLIC COMMENT**



Vision: Sustainably Managing Atlantic Coastal Fisheries

August 2018

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Public Comment Process and Proposed Timeline

In May 2018, the Atlantic States Marine Fisheries Commission’s (Commission) Coastal Sharks Management Board initiated the development of an addendum to the Interstate Fishery Management Plan (FMP) to streamline the process of states implementing complementary measures to federal shark regulations whenever possible. This Draft Addendum presents background on the Commission’s management of coastal sharks, the addendum process and timeline, and a statement of the problem. This document also provides management options for public consideration and comment.

The public is encouraged to submit comments regarding this document at any time during the public comment period. The final date comments will be accepted is **Monday, October 1, 2018 at 5:00 p.m.** Comments may be submitted via the public hearing webinar (see details below) or by mail, email, or fax. If you have any questions or would like to submit comment, please use the contact information below.

A public hearing webinar will be held **Tuesday, September 25th at 5:30 p.m.**

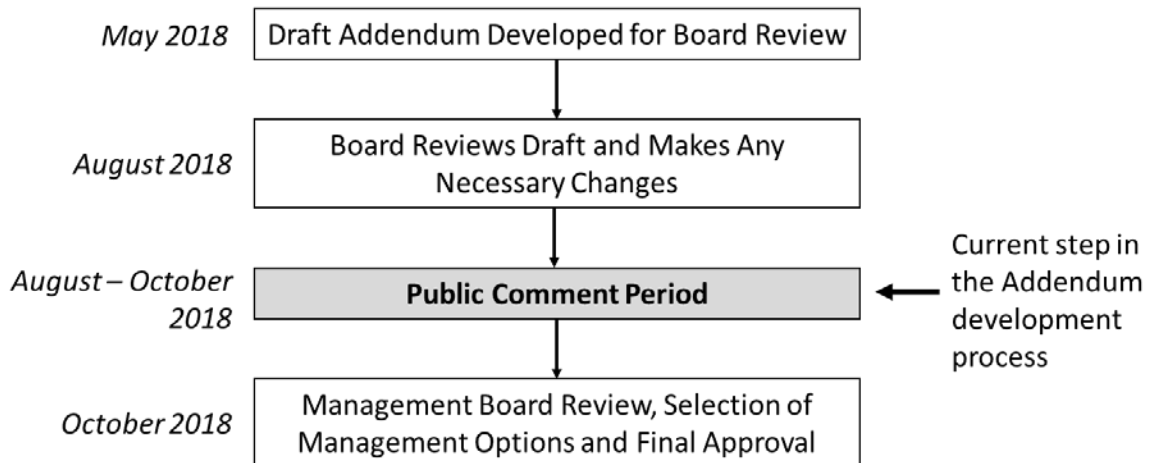
Registration URL: <https://attendee.gotowebinar.com/register/2613822106816627203>

Phone: 1.888.585.9008

Room Number: 853-657-937

Mail: Kirby Rootes-Murdy, Senior FMP Coordinator
Atlantic States Marine Fisheries Commission
1050 North Highland Street, Suite 200A-N
Arlington, VA 22201

Email: comments@asmfc.org
(Subject: Draft Addendum V)
Phone: 703.842.0740
Fax: 703.842.0741



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1.0 Introduction

Atlantic shark fisheries from Maine through the east coast of Florida are currently managed through complementary fishery management plans by the Commission and NOAA Fisheries Highly Migratory Species (HMS) Management Division. The Commission coordinates management of Atlantic sharks in state waters (0-3 miles) via the 2008 Atlantic Coastal Sharks Interstate Fishery Management Plan (FMP) and Addenda I-IV. Management authority in the exclusive economic zone (3-200 miles from shore) lies with NOAA Fisheries via the 2006 Consolidated Atlantic HMS FMP and associated Amendments.

The Commission's Coastal Shark Management Board (Board) approved the following motion on May 1, 2018:

Move to initiate an addendum to give the Board the flexibility to implement measures for all species within the Coastal Sharks FMP through Board action.

This Draft Addendum proposes options to allow the Board to streamline the process of state implementation of federal shark regulations so that complementary measures are seamlessly and concurrently implemented at the state and federal level whenever possible.

2.0 Overview

2.1 Statement of Problem

The Commission's Coastal Sharks FMP currently allows for commercial quotas, possession limits, and season dates to be set annually through Board approved specifications. All other changes to commercial or recreational management can only be accomplished through an addendum or emergency action, as outlined in the Adaptive Management Section (4.5) of the FMP (ASMFC 2008). While addenda can be completed in a relatively short period of time (less than 6 months), the timing of the addenda and state implementation can result in inconsistencies between state and federal shark regulations, particularly when NOAA adopts changes through interim emergency rules. Inconsistencies can create confusion for anglers and commercial fishermen, present challenges for law enforcement, and most importantly, undermine the conservation of the resource, particularly when more restrictive measures have been implemented in federal waters based on changes in stock conditions. At times, the states can take up to a year to implement changes while at other times, states never implement any changes.

The only option for the Board to respond quicker than an addendum is through an emergency action, as outlined in the ISFMP Charter. However, there are rigorous criteria that define an emergency action, which are often not met. For example, NOAA Fisheries recently implemented an increase in the recreational size limit for shortfin mako sharks based on new assessment information. While this is an important conservation

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measure, it does not constitute an emergency action in state waters since the conservation of shortfin mako sharks is not substantially at risk by unanticipated changes in the ecosystem, the stock, or the fishery due to catch in state waters. After deciding not to modify shortfin mako regulations in state waters at the Board Meeting in May 2018, the Board chose to initiate this addendum to allow more flexibility in responding to changes in stock status for shortfin mako and all other shark species under the FMP moving forward.

2.2 Background

The Commission's Coastal Sharks FMP, adopted in 2008, manages coastal sharks as eight different complexes: prohibited, research, non-blacknose small coastal sharks (SCS), blacknose, aggregate large coastal sharks (LCS), hammerhead, pelagic, and smooth dogfish. Over the past 9 years, the FMP has been adapted 4 times through addenda. These addenda have been adopted to match regulatory changes made by NOAA HMS for federal waters and HMS permit holders.

To develop commercial management specifications annually, NOAA Fisheries considers recent year's landings data, stock assessment information, international agreements, and input from the HMS Advisory Panel and the public. As part of the Consolidated HMS FMP, NOAA Fisheries can set commercial quotas, possession limits, and season start dates by shark management group. NOAA Fisheries monitors the regional commercial quotas throughout the year and makes adjustments to the season length and possession limit to ensure the quotas are not exceeded.

Generally, NOAA Fisheries will identify commercial specifications (i.e., quota adjustments, season start dates, and starting possession limits) in a proposed rule for HMS permit holders and federal waters in the fall, with the final rule released in November or December. At this time, NOAA Fisheries does not change recreational measures such as possession or size limits on an annual basis. Rather, as changes to the status of stock for shark species become available, NOAA Fisheries implements changes to both commercial and recreational measures in the regulations (e.g., baseline quota, size limits, baseline possession limits, etc.) to address these stock status changes through a proposed and final rulemaking. Additionally, in rare instances, NOAA Fisheries can implement interim emergency rule measures to respond to the new stock status or other emergencies. For all federal rulemakings, NOAA Fisheries provides at least one opportunity for public comment, although interim emergency rules may be implemented before public comment is considered.

Generally, the Commission follows NOAA Fisheries in setting specifications for the commercial fishery by adopting the same commercial quotas, possession limits, and season start dates by shark management groups. Annually, the Commission reviews the specifications as indicated in the proposed rule in October or early November, but often waits to finalize state waters specifications until after NOAA Fisheries publishes a final rule for federal waters. Some states move to implement changes in their measures for

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state waters and state permit holders once the final rule is published; others begin the process in the early part of the following year. As part of the Commission's complementary FMP, the Commission follows NOAA Fisheries for in-season changes to the possession limit. A previously noted, recreational management measures currently cannot be adjusted annually through specifications and require an addendum to modify the FMP.

3.0 Proposed Management Program

The proposed options below consider different approaches to how the Board can adjust coastal shark regulations as well as different timing on when this action can occur.

Option 1: Status Quo

If this option is selected, there would be no change to the current management program. Changes to any of the items listed in the Adaptive Management Section of the FMP could only be adjusted through an addendum or emergency action. Both an addendum and emergency action include opportunities for public comment.

Option 2: Adjust All Needed Measures through Annual Specifications (Modifies Section 4.3.7 of the FMP)

The FMP currently allows the Board to set commercial quotas, possession limits and seasons through annual specifications.

Under this option, the Board would have the authority to annually change the following additional management measures during the fall specifications meeting via Board action:

- Recreational size limits
- Recreational possession limits
- Recreational seasons
- Area closures (both recreational and commercial)
- Gear specifications (both recreational and commercial)
- Effort controls (both recreational and commercial)

Prior to setting specifications, the Board may seek input from the Coastal Sharks Technical Committee (TC) and Advisory Panel (AP) on how management measures should be adjusted as part of the annual specifications process, including a review of any new landings and stock assessment information.

Through a motion, the Board can then adopt these regulatory changes. It is important to note that regulatory changes through a specifications process does not require a public hearing or designated public comment period; however, members of the public are welcome to submit comments to the Board ahead of or during the specifications meeting for consideration. The approval of this option does not preclude the Board from using the addendum process.

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Under this option, the Board also can make in-season adjustments to the above measures through a two-thirds vote of the Board as required under the Commission's voting procedures for modifying annual specifications.

Option 3: Adjust Measures on an Ad Hoc Basis as Needed

Under this option, in the event that new scientific information or management changes for federal waters and HMS permit holder becomes available, the Board will consider adjusting the following management measures via Board action on an as needed basis:

- Recreational size limits
- Recreational possession limits
- Recreational seasons
- Area closures (both recreational and commercial)
- Gear specifications (both recreational and commercial)
- Effort controls (both recreational and commercial)
- Commercial quotas
- Commercial possession limits
- Commercial seasons

In these circumstances, the Board may seek input from the Coastal Sharks TC and AP on how management measures should be adjusted at any point throughout the fishing season. Through a motion, the Board can then adopt these regulatory changes.

It is important to note that regulatory changes under this option would not require public hearings or a designated public comment period; however, members of the public are welcome to submit comments to the Board ahead of or during the meeting to consider adjusting these measures. The approval of this option does not preclude the board from using the addendum process.

4.0 Implementation

TBD

References

Atlantic States Marine Fisheries Commission (ASMFC). 2008. Interstate Fishery Management Plan for Coastal Sharks.