

DRAFT

**Amendment 1 to the Consolidated Atlantic Highly
Migratory Species Fishery Management Plan
Essential Fish Habitat**

Including:

A Draft Environmental Impact Statement

September 2008



DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Highly Migratory Species Management Division
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Amendment 1 to the Consolidated Atlantic Highly Migratory Species Fishery Management Plan

- Action:** Review and update Atlantic Highly Migratory Species (HMS) Essential Fish Habitat (EFH), identify new Habitat Areas of Particular Concern (HAPCs), and analyze fishing and non-fishing impacts on EFH.
- Type of Statement:** Draft Environmental Impact Statement
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- Abstract:** The National Marine Fisheries Service (NMFS) is amending the Consolidated Atlantic Highly Migratory Species Fishery Management Plan based on a review of Atlantic HMS EFH. The purpose of the amendment is to examine alternatives for updating existing HMS EFH, consider additional HAPCs, and analyze fishing impacts on EFH consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other relevant Federal laws, including the National Environmental Policy Act (NEPA). The Magnuson-Stevens Act EFH regulations call for a comprehensive review of all EFH information, and this amendment constitutes the comprehensive review and proposed update of EFH for all HMS that began with the Consolidated HMS FMP. In addition, new information has become available, including information on the biology, distribution, habitat requirements, life history characteristics, migratory patterns, spawning, pupping, and nursery areas of Atlantic HMS that were taken into consideration when updating EFH in this amendment.

EXECUTIVE SUMMARY

In 1996, Congress reauthorized the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) which included a requirement to identify and describe EFH for all Federally managed fisheries based on the guidelines established by the Secretary of Commerce (Secretary) under section 305(b)(1)(A), to minimize, to the extent practicable, adverse effects on such habitat caused by fishing, and to identify other actions to encourage the conservation and enhancement of EFH. EFH was defined in the Magnuson-Stevens Act as those habitats necessary for spawning, breeding, feeding, or growth to maturity. The EFH guidance published on January 17, 2002 (67 FR 2343), stated that EFH must be identified and described for each life stage of all species in the fishery management unit (FMU) as well as the physical, biological, and chemical characteristics of EFH and if known, how these characteristics influence the use of EFH by each species and life stage. Fishery Management Plans (FMPs) and FMP amendments must provide written descriptions of EFH and must also provide maps of the geographic locations of EFH or the geographic boundaries within which EFH for each species and life stage is found (50 CFR 600.815(a)(1)(i)).

In 1999, EFH for Atlantic tunas, swordfish, and sharks was identified and described in the FMP for Tunas, Swordfish and Shark, and EFH for billfish was described in the 1999 Amendment 1 to the Billfish FMP. The FMP and amendment included text descriptions, tables, and maps for each species and life stage depicting the geographic locations of HMS EFH. Habitat Areas of Particular Concern (HAPCs) were identified and described for sandbar sharks off Chesapeake Bay, MD, Delaware Bay, DE, Great Bay, NJ, and the Outer Banks off North Carolina.

In 2003, NMFS issued Amendment 1 to the FMP for Atlantic Tunas, Swordfish, and Sharks, which, among other things, updated EFH for five shark species (blacktip, sandbar, finetooth, dusky, and nurse sharks).

In 2004, NMFS began the comprehensive review of all HMS EFH in the Consolidated HMS FMP, which was released on July 14, 2006 (71 FR 40096). In that document, NMFS provided new information collected since the EFH boundaries were established in 1999. NMFS did not modify or update any of the existing EFH identifications, descriptions, or boundaries in the Consolidated HMS FMP or propose any new measures to minimize impacts from fishing gear. Rather, NMFS presented new EFH information and data collected since 1999, including an evaluation of fishing gear impacts. The purpose of the EFH review was to gather any new information and determine whether modifications to existing EFH descriptions and delineations were warranted.

On November 7, 2006 (71 FR 65088), NMFS published a Notice of Intent to prepare an Environmental Impact Statement (EIS) to examine alternatives for updating existing HMS EFH, consider additional HAPCs, analyze fishing impacts on EFH, and if necessary, identify ways to avoid or minimize, to the extent practicable, adverse fishing impacts on EFH consistent with the Magnuson-Stevens Act and other relevant Federal laws. At that time, NMFS requested new information not previously considered in the Consolidated HMS FMP,

comments on potential HAPCs, and information regarding potential fishing and non-fishing impacts that may adversely affect EFH.

In this document, NMFS is providing the culmination to date of the review that began with the Consolidated HMS FMP. NMFS is proposing to update and revise existing EFH for Atlantic HMS, and to consider new HAPCs. Three alternatives, including a No Action alternative, are fully analyzed for identifying EFH. Four alternatives, including a No Action alternative, are fully analyzed to consider designation of HAPCs. As a component of the Draft EIS, preferred alternatives for updating EFH and for designating new HAPCs are identified, and this document presents these proposed revisions to EFH and HAPCs and analyzes fishing impacts on EFH.

In addition to fulfilling the EFH requirements of the Magnuson-Stevens Act, NMFS' consideration of EFH designation must also be consistent with other applicable laws including, but not limited to, the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C Sections 4321 to 4370(f)) and the Council on Environmental Quality (CEQ) NEPA implementing regulations (40 CFR Sections 1500 to 1508). This document is an integrated document prepared in accordance with the Magnuson Stevens Act and NEPA. Chapters 2 and 4 present and analyze the range of alternatives considered to meet NMFS purpose and need for action, and Chapter 3 describes the human environment affected by the proposed action. Other considerations specifically required under NEPA also are considered in Chapter 4. In accordance with MSA, Chapter 5 describes Atlantic HMS life history accounts and EFH descriptions and maps. Note that these chapter present EFH and HAPC in accordance with the DEIS preferred alternatives (EFH Alternative 3 and HAPC Alternative 2). An analysis of fishing and non-fishing impacts in Chapter 6 is provided as required under MSA, and also presents a cumulative impact analysis for purposes of MSA and consideration of potential cumulative impacts in accordance with NEPA. Chapter 7 presents research and information needs for Atlantic HMS, and Chapter 8 identifies the preparers of this document and other agencies consulted during preparation. NMFS conducted a thorough public scoping process, including release of Pre-Draft of Amendment 1. The scoping process resulted in input on the range of alternatives and analyses considered in this draft Amendment 1 and Draft EIS, and Appendix 1 summarizes the scoping comments received and how these comments were considered and addressed.

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