

NATIONAL REPORT
TO THE 3RD MEETING OF THE SIGNATORIES OF THE
MEMORANDUM OF UNDERSTANDING ON THE CONSERVATION OF MIGRATORY
SHARKS
UNITED STATES OF AMERICA
October 2018

The Magnuson-Stevens Fishery Conservation and Management Act¹ (Magnuson Act) is the primary law governing fisheries management in U.S. Federal waters. It was first passed in 1976 and was revised in 1996 by the Sustainable Fisheries Act and in 2007 with the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act. Key objectives of the Magnuson Act: Prevent overfishing; Rebuild overfished stocks; Increase long-term economic and social benefits; and ensure a safe and sustainable supply of seafood.

The Magnuson Act, among other things, extended U.S. jurisdiction to 200 nautical miles and established National Standards². The National Standards are principles that must be followed in any fishery management plan to ensure sustainable and responsible fishery management. NOAA Fisheries has developed guidelines for each National Standard. The Magnuson Act also mandates an open, public process for the development of fishery management measures and actions. All fishery management actions include an opportunity for public comment at numerous points before any action becomes final.

The United States has a robust conservation and management program for sharks and manages its domestic shark fisheries through numerous fishery management plans. The fishery management plans that manage shark species on Annex 1 of the MOU are: The 2006 Consolidated Atlantic HMS Fishery Management Plan³; the Fisheries Management Plan for U.S. West Coast Fisheries for Highly Migratory Species⁴; and the Fishery Ecosystem Plans for fisheries in the Pacific Islands region⁵.

The Fishery Management Plans have implemented various regulations to monitor and restrict harvest of sharks by commercial and recreational fishermen including permits, reporting requirements; observer requirements; and, retention limits. These regulations continue to change over time to address issues.

¹ <https://www.fisheries.noaa.gov/resource/document/magnuson-stevens-fishery-conservation-and-management-act>

² <https://www.fisheries.noaa.gov/national/laws-and-policies/national-standard-guidelines>

³ <https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-hms-fishery-management-plans-and-amendments>

⁴ https://www.westcoast.fisheries.noaa.gov/fisheries/migratory_species/highly_migratory_species_domestic.html

⁵ https://www.fpir.noaa.gov/SFD/SFD_feps.html

The United States also conducts stock assessments⁶ and reports on the status of our fisheries, as required under the Magnuson Act⁷.

In addition to the Magnuson Act, there are other relevant statutes with respect to shark conservation and management. The Shark Finning Prohibition Act of 2000 amended the Magnuson-Stevens Act. It prohibited any person under U.S. jurisdiction from engaging in the finning of sharks, possessing shark fins aboard a fishing vessel without the corresponding carcass, and landing shark fins without the corresponding carcass. It also requires the Agency to submit a yearly Report to Congress on Implementation of the Shark Finning Prohibition Act⁸. The Shark Conservation Act of 2010⁹ was signed into law in 2011. It amended the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Act and among other things, requires that all sharks in the United States, with one exception, be brought to shore with their fins naturally attached.

The National Environmental Policy Act (NEPA)¹⁰ is a ‘procedural statute’ that contains action-forcing procedures to ensure that Federal agencies take environmental factors into account during rulemaking. It only applies to Federal Agencies and mandates that they must consider and publicly disclose the potential environmental impact of Federal actions. All Federal rulemaking is governed under the Administrative Procedures Act (APA)¹¹ which establishes a “notice and comment” procedure to enable public participation in the rulemaking process. Under the APA, the National Marine Fisheries Service (NMFS) is required to publish notification of proposed rules to solicit, consider and respond to public comment on rules before they are finalized.

The United States completed its National Plan of Action for the Conservation and Management of Sharks (NPOA Sharks) in 2001 and revised it in 2014¹².

There are several Annex I Species that are listed under the U.S. Endangered Species Act (ESA)¹³ Under the ESA, the federal government has the responsibility to protect: Endangered species—species that are in danger of extinction throughout all or a significant portion of their range; Threatened species—species that are likely to become endangered in the foreseeable future; and, Critical habitat—specific areas that are: within the geographical area occupied by the species at the time of listing, if they contain physical or biological features essential to conservation, and those features may require special management considerations or protection outside the geographical area occupied by the species if the agency determines that the area itself is essential for conservation.

⁶ <https://www.st.nmfs.noaa.gov/stock-assessment/>

⁷ <https://www.fisheries.noaa.gov/national/2016-report-congress-status-us-fisheries>

⁸ <https://www.fisheries.noaa.gov/resource/document/2016-shark-finning-report-congress>

⁹ <https://www.fisheries.noaa.gov/national/laws-and-policies/shark-conservation-act>

¹⁰ <https://www.nepa.noaa.gov/>

¹¹ <https://coast.noaa.gov/data/Documents/OceanLawSearch/Senate%20Document%20No.%2079-248.pdf>

¹² <https://www.fisheries.noaa.gov/national/international-affairs/shark-conservation>

¹³ <https://www.fisheries.noaa.gov/topic/laws-policies#endangered-species-act>

The following Annex I species are currently listed as endangered under the ESA: Dwarf sawfish; Green sawfish; Largetooth sawfish; Narrow sawfish; Smalltooth sawfish (U.S. and non-U.S. portion of range); Scalloped hammerhead shark (Eastern Atlantic); and, Scalloped hammerhead shark (Eastern Pacific). The following Annex I species are currently as threatened under the ESA: Scalloped hammerhead shark (Central and Southwest Atlantic) and Scalloped hammerhead shark (Indo-West Pacific).